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MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 5, 2006
10:00 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBERS

Ms. Margo Reid Brown, Board Chairperson

Mr. Jeffrey Danzinger

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliot Block, Acting Chief Counsel

Mr. Howard Levenson, Deputy Director

Mr. Michael Bledsoe, Senior Staff Counsel

Mr. Mark de Bie, Manager, Permitting and Inspection Branch

Ms. Bobbie Garcia

Mr. Tad Gebre-Hawariat

Mr. Willy Jenkins

Ms. Diane Ohiosumma

Ms. Carla Repucci

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Martin Aiyetiwa, Department of Public Works, County of Los Angeles

Mr. Evan Edgar, BLT Enterprises

Mr. Grant Eisen, Nevada County LEA

Mr. George Eowan

Mr. Matt Fore, EAC, South Central LEA Roundtable

Mr. Mike Hammer, Looney Bins

Ms. Paula Harold, San Bernardino County LEA

Mr. Chuck Helget, Allied Waste

Ms. Rebecca Lafreniere, City of San Diego LEA

Mr. Justin Malan, CCDEH

Mr. Mike Mohajer, Los Angeles County Integrated Waste Management Task Force

Mr. Neil Mohr, Sycamore Landfill

Mr. Greg Pirie, Napa County

Mr. William Prinz, Enforcement Advisory Council, San Diego City

Ms. Nancy Sansonetti, Solid Waste Management, San Bernardino County

Mr. Myan Spaccarelli, Looney Bins

Mr. Larry Sweetser, Rural County ESJPA

Mr. David Thompson, City of Los Angeles LEA

Ms. Lisa Todd, Solid Waste Program, Sacramento County

Mr. Chuck White, Waste Management

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1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the September 5th meeting of the Permitting &
4 Enforcement Committee. We have agendas on the back table.

5 And if anyone would like to speak to an item,
6 please fill out a speaker slip form and forward it --
7 bring it up here to Donnell. And then you'll have a
8 chance to address our committee.

9 Also, I'd like to ask everyone to please turn off
10 or put in the silent mode your cell phones and pagers.

11 And with that, Donnell, would you please call the
12 roll.

13 SECRETARY DUCLO: Members Peace?

14 COMMITTEE MEMBER PEACE: Here.

15 SECRETARY DUCLO: Wiggins?

16 Chair Mulé?

17 CHAIRPERSON MULÉ: Here.

18 And I understand Board Member Wiggins will be a
19 bit late. So we will hold the roll open for her.

20 With that, let's proceed to our Deputy Director's
21 report.

22 Good morning, Howard.

23 DEPUTY DIRECTOR LEVENSON: Morning, Madam Chair
24 and Member Peace. And Member Danzinger is joining --

25 CHAIRPERSON MULÉ: We are now joined by Board

1 Member Danzinger.

2 Good morning.

3 BOARD MEMBER DANZINGER: Morning.

4 DEPUTY DIRECTOR LEVENSON: I'm Howard Levenson,
5 Deputy Director for Permitting & Enforcement. We have a
6 quite packed agenda today, so I'm going to be short with
7 my Deputy's report, and we can plunge right into the
8 items.

9 There's just two things that I want to update you
10 on. One is proposed Rule 410, which is the South Coast
11 Air Quality Management District proposed rule that would
12 regulate odors from MRFs and transfer stations. And we
13 participated as staff in a working group meeting on August
14 24th and then in a public consultation meeting on August
15 30th that was held -- both were held by the South Coast
16 staff on the rule.

17 As you know, some industry members contend that a
18 new rule is unnecessary. And we have certainly raised
19 questions about the need for that rule as well. But we've
20 also worked cooperatively with the South Coast staff in
21 trying to craft a rule that if adopted is palatable to
22 LEAs and industry as much as possible.

23 We did recognize that a preventive approach would
24 be useful, but also that the rule needed to be much more
25 site specific and flexible than the prescriptive approach

1 originally proposed by South Coast AQMD.

2 So as of this point, they have -- the comments on
3 the proposed rule are due today from any stakeholders, and
4 the proposed rule is slated for adoption by the district
5 board on October 6th.

6 The other thing that I'd like to mention is our
7 solid waste cleanup project at the Torres Martinez
8 Reservation down in Riverside. Last month the Board
9 approved a Board-managed cleanup project under the Solid
10 Waste Cleanup Program for the Tayawa illegal disposal site
11 on the Torres Martinez Reservation. I'm pleased to
12 announce that the program will be starting cleanup
13 activities at the site this week. We think that the
14 cleanup activities will take several weeks to complete.
15 And then upon completion, our cleanup contractor and
16 activities will shift directly to the Campo Reservation
17 Project, which is scheduled to be completed in October.
18 And that one also was okayed by the Board last month.

19 So two major cleanups down in southern
20 California. I'm sure we'll be able to take advantage of
21 some opportunities for press on those when they're
22 completed.

23 With that, I'll close my Deputy Director's report
24 and be happy to answer any questions that you might have.

25 CHAIRPERSON MULÉ: Thank you, Howard.

1 Do you have any questions for Howard, Board

2 Member Peace?

3 COMMITTEE MEMBER PEACE: No.

4 CHAIRPERSON MULÉ: Let's -- we needed to ask

5 Board Member Peace as well as myself on ex partes. And I

6 know you have a couple to report, as do I.

7 COMMITTEE MEMBER PEACE: Yes, I spoke briefly to

8 Chuck Helget regarding Item No. 4 and to Mike Mohajer on

9 the 1497 regs.

10 CHAIRPERSON MULÉ: And I also spoke to Mike

11 Mohajer on 1497 and said hello to Mario Borgatello.

12 And with that, let's proceed to our agenda.

13 Howard, our first item is Committee Item B.

14 DEPUTY DIRECTOR LEVENSON: Thank you, Madam

15 Chair.

16 The first item is:

17 Consideration of a Revised Full Solid Waste

18 Facilities Permit for the Marborg C&D Recycling and

19 Transfer Facility in San Barbara County.

20 And Dianne Ohiosumua is going to go ahead and

21 make that presentation.

22 MS. OHIOSUMUA: Good morning.

23 CHAIRPERSON MULÉ: Good morning, Dianne.

24 MS. OHIOSUMUA: Good morning.

25 Before I begin the presentation -- is that okay?

1 Thank you.

2 Before I begin the presentation, I would like to
3 make a verbal update to the agenda item. The agenda item
4 has been revised, but this is an additional update. And
5 after the P&E Committee I will actually update it prior to
6 the Board meeting.

7 The revision is the proposed change in the
8 operating hours on holidays. It was previously listed as
9 6 a.m. to 12 noon. It will be changed to 8 a.m. to 12
10 noon.

11 CHAIRPERSON MULÉ: Okay. Thank you, Diane. Let
12 the record reflect in the item that the operating hours
13 for holidays are 8 a.m. to 12 noon. And we will have an
14 updated agenda item for the full Board meeting.

15 Thank you.

16 MS. OHIOSUMUA: Thank you very much.

17 The proposed permit will allow the facility to
18 increase its daily tonnage from 750 to 1,250 tons per day.

19 The facility will change the hour of operation on
20 holidays. They updated the transfer processing report.

21 The facility will accept a -- waste and tires. The
22 facility will increase the daily traffic volume from 586
23 trips/293 vehicles per day to 340 vehicles per day.

24 There was also minor changes to the language in
25 the Finding and Document section of the proposal permit as

1 it pertains to the CEQA document.

2 Board staff finds that the LEA has made all of
3 the necessary findings relevant to the permit.

4 As indicated in the agenda, at the time this item
5 was prepared Board staff had determined all but two of the
6 requirements for the proposed permit. The negative
7 declaration that was prepared on the CEQA was adopted on
8 8/11/06. The NOD was filed by the lead agency on August
9 the 14th, 2006. The pre-permit inspection was conducted
10 on August the 11th, 2006.

11 There were no state minimum standard violations.
12 However, there was a permit violation for exceeding the
13 tonnage limit one time. And the permit violation was not
14 cited in a previous LEA inspection report.

15 Now, Board staff with all those updates has made
16 all of the required findings.

17 Board staff recommends Option 1, adoption of the
18 Solid Waste Facilities Permit, Decision No. 2006-157,
19 concurring with the issuance of the Solid Waste Facilities
20 Permit No. 42-AA-0066. Did I say like -- 066.

21 Representatives from the Santa Barbara County LEA
22 are here and the operator is also here, if you have any
23 questions.

24 That concludes staff's presentation.

25 CHAIRPERSON MULÉ: Thank you, Diane.

1 And, first of all, before we take any questions,
2 I would like the record to reflect our Board Chair being
3 here, Margo Brown.

4 Good morning.

5 And Pat Wiggins. Great.

6 We just got started. So we're on the first
7 agenda item, Item 1. So you didn't miss a thing.

8 Are there any questions for either the LEA or the
9 operator on this agenda item? Do we have any questions?

10 I just wanted to thank the LEA and the operator
11 for making the trip up here.

12 I just wanted to say that I have had the
13 opportunity to see this facility when it was probably
14 three-quarters of the way under construction. It wasn't
15 quite finished yet. But it is a most impressive facility.
16 And I just want to thank you on a job well done.

17 So do I have a motion for approval?

18 COMMITTEE MEMBER PEACE: I'd like to move
19 Resolution No. 2006-157 revised.

20 COMMITTEE MEMBER WIGGINS: Second.

21 CHAIRPERSON MULÉ: I have a motion by Member
22 Peace, seconded by Member Wiggins.

23 And that revision also will include the change
24 from the 6 a.m. to the 8 a.m. on the holidays, correct?

25 DEPUTY DIRECTOR LEVENSON: That's correct, Madam

1 Chair.

2 CHAIRPERSON MULÉ: Okay, good.

3 Donnell, would you call the roll.

4 SECRETARY DUCLO: Members Peace?

5 COMMITTEE MEMBER PEACE: Aye.

6 SECRETARY DUCLO: Wiggins?

7 COMMITTEE MEMBER WIGGINS: Aye.

8 SECRETARY DUCLO: Chair Mulé?

9 CHAIRPERSON MULÉ: Aye.

10 That passes unanimously.

11 And we can put that on consent, Elliot?

12 ACTING CHIEF COUNSEL BLOCK: Yes.

13 CHAIRPERSON MULÉ: Great. Thank you. Yeah, I
14 just want to make sure, even with that change we can put
15 that on consent?

16 ACTING CHIEF COUNSEL BLOCK: Yes.

17 CHAIRPERSON MULÉ: Okay. Very good.

18 Thank you.

19 Very good. Our next Committee item is Committee
20 Item C, Board Agenda Item 2.

21 DEPUTY DIRECTOR LEVENSON: Madam Chair, on this
22 particular item on the Victorville landfill, we've had a
23 request which we just received through the LEA. The
24 operator is unable to make it here this morning and is
25 flying up from Ontario and has requested that we hear this

1 later in the agenda if we can. We're not sure when he's
2 going to get here. Might be 12:30, 1 o'clock. So what I
3 might suggest, if it's okay with you, if we put that last
4 on the agenda and we'll take it when we get to it.

5 CHAIRPERSON MULÉ: Sure. We'll defer it.

6 Okay. So our Item 3 has been pulled, for the
7 record. So let's proceed -- or that was Committee Item
8 C -- or D. So let's proceed to Committee Item, E Agenda
9 Item 4.

10 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
11 Chair.

12 This item is:

13 Consideration of a Revised Full Solid Waste
14 Facilities Permit for the Sycamore Landfill in San Diego
15 County.

16 And we'll start off the presentation with Tad
17 Gebre-Hawariat making that presentation.

18 COMMITTEE MEMBER PEACE: Excuse me.

19 Howard, did we ever get a response letter from
20 the LEA to the City of Santee?

21 DEPUTY DIRECTOR LEVENSON: We have -- as Tad will
22 go into and the LEA will also go into, we have been in
23 discussions with the LEA on Friday afternoon and this
24 morning about the City of Santee letter. So the LEA does
25 have a presentation that it's going to make following

1 staff's presentation. And then we'll be able to go back
2 and forth and try and resolve the questions raised by the
3 City of Santee letter.

4 COMMITTEE MEMBER PEACE: Thank you.

5 MR. GEBRE-HAWARIAT: Good morning.

6 CHAIRPERSON MULÉ: Good morning, Tad.

7 MR. GEBRE-HAWARIAT: Before I start, I want to
8 clarify one thing.

9 There was a little typing error on page 4-4 of
10 the agenda item. I think it's been corrected since. But
11 just in case some people have a version of the agenda item
12 with that error, we want to correct the -- the arrow was
13 on the third bullet, the LEA certification language. And
14 if I were to rephrase that or reread that, it would read
15 as follows. The bullet will say: "The proposed Revised
16 Solid Waste Facilities Permit is consistent with and is
17 supported by the negative declaration that was adopted by
18 the Development Services Department on August 22nd, 2006,"
19 for the record.

20 CHAIRPERSON MULÉ: Thank you, Tad.

21 MR. GEBRE-HAWARIAT: Now then, going into the
22 presentation. The proposed revised permit is to allow the
23 following changes:

24 Increase the permitted maximum daily tonnage from
25 3,300 to 3,965 tons per day and to remove the monthly cap

1 on tonnage.

2 And the permit is also to change based upon new
3 calculation the remaining gross landfill capacity from
4 20,600,000 to 48,124,462 cubic yards.

5 The revised permit is also to change the estimate
6 of the landfill closure period from 2016 to 2031.

7 As we have indicated on the table on page 4-4 of
8 the agenda item, all of the requirements for the proposed
9 revised permit have been met. Therefore, staff recommends
10 that the Board adopt Resolution No. 2006-160, concurring
11 in the issuance of Solid Waste Facilities Permit No.
12 37-AA-0023.

13 And as Howard indicated earlier, the LEA has a
14 presentation to make, as also Mr. Neil Mohr, the general
15 manager for the landfill, are here. They're ready to
16 answer any questions you may have.

17 This concludes my presentation.

18 CHAIRPERSON MULÉ: Thank you, Tad.

19 If the LEA wants to come forward, please identify
20 yourself for the record. Thank you.

21 Good morning.

22 (Thereupon an overhead presentation was
23 Presented as follows.)

24 MS. LAFRENIERE: Good morning.

25 I'm Rebecca Lafreniere with the City of San Diego

1 Solid Waste Local Enforcement Agency. And I am the staff
2 person assigned to the Sycamore landfill, for not only
3 doing the monthly inspections, but to process any
4 permitting enclosure documents for the site.

5 Good morning, Madam Chair and Committee members.

6 --o0o--

7 MS. LAFRENIERE: The Sycamore landfill is located
8 in the City of San Diego just west of the City of Santee,
9 north of Highway 52 and north of Mission Trails Regional
10 Park.

11 --o0o--

12 MS. LAFRENIERE: The permitted boundary is 491
13 acres and it does have a permitted footprint of 324 acres.
14 They currently operate in stage 1 or approximately 40
15 percent of the permitted footprint.

16 --o0o--

17 MS. LAFRENIERE: The proposed permit before you
18 today is to allow an increase in the daily tonnage for
19 disposal from 3300 tons per day to 3965 tons. And as Tad
20 mentioned, it's also to eliminate the monthly tonnage
21 limit of 75,833 tons.

22 --o0o--

23 MS. LAFRENIERE: There's four administrative
24 updates that will occur with this revision. One is to
25 correct the estimated gross capacity from 20.6 million

1 cubic yards to 48.1 cubic yards -- 48.1 million cubic
2 yards. That also resulted in an update to the closure
3 date, extending it from 2,016 to 2,031 and also updating
4 the findings to support the revision as well as to update
5 supporting documents.

6 --o0o--

7 MS. LAFRENIERE: The increase in remaining
8 capacity is a result of new calculation required on the
9 Solid Waste Facilities Permit application instructions.
10 The calculation is based on the bottom of the excavation
11 to the top of the final cover. The historical calculation
12 provided by the County of San Diego in 1992, which was the
13 owner and operator of Sycamore at that time, did not take
14 into account the volume of excavated soils. There's also
15 been of course improved compaction technology as well as
16 the utilization of alternative daily cover that has
17 displaced the minimum application of six inches of soil
18 daily.

19 --o0o--

20 MS. LAFRENIERE: In evaluating the proposed
21 increase in daily tonnage an initial study was conducted
22 and the impacts were evaluated under the California
23 Environmental Quality Act. There's also been a review of
24 the reported disposal site information to ensure that
25 there's adequate operational controls in place to deal

1 with the increase in tonnage by adequate equipment and
2 staffing.

3 --o0o--

4 MS. LAFRENIERE: As I mentioned, an initial study
5 was conducted and a negative declaration was prepared for
6 the proposed project.

7 The 30-day public comment period ended on July
8 16th, 2006. The LEA did accept two late comment letters
9 and responded to them in the negative declaration. The
10 negative declaration was adopted on August 22nd, 2006.

11 --o0o--

12 MS. LAFRENIERE: This is the proposed permit
13 before you. The areas that are highlighted in yellow are
14 those that are being proposed to change with this
15 revision; as you can see, the daily tonnage and the
16 estimated capacity numbers and the closure date.

17 On page 2 of the permit the findings are being
18 updated as well as other supporting documents.

19 --o0o--

20 MS. LAFRENIERE: There are no proposed changes on
21 the third page of the permit.

22 --o0o--

23 MS. LAFRENIERE: The proposed revised Solid Waste
24 Facility Permit will allow the landfill to receive an
25 additional 665 tons of waste per day for disposal. It

1 will not increase the existing permitted traffic volume of
2 620 vehicles per day. It will not allow a change in
3 operating hours or days, and it will not allow a change in
4 the land-use permit, nor will it allow for a vertical or
5 horizontal expansion of the landfill.

6 --o0o--

7 MS. LAFRENIERE: There've been several issues and
8 comments raised during the proposed permit process period
9 that I'd like to address. One has to do with the Sunday
10 operations. The original Solid Waste Facilities Permit
11 for the Sycamore landfill was issued in 1979 and it
12 allowed the landfill to operate seven days per week. It
13 was revised in 1993, modified in 1997 to reflect a change
14 of ownership and operator. It was revised in 1999, 2004,
15 as well as the proposed revised permit pending today. All
16 of these permits continue to allow the landfill to operate
17 seven days per week.

18 --o0o--

19 MS. LAFRENIERE: I'd also like to brief you on
20 the compliance history of the site.

21 In the last 56 months, or a little over four and
22 a half years, this landfill has received 22 violations out
23 of 56 inspections for Public Resource Code 44014(b);
24 operator complies with terms and conditions related to
25 exceedances of permitted daily tonnage and monthly

1 tonnages; also, the facility had received one operating
2 record violation and one state minimum standard violation
3 for an alternative daily cover problem.

4 --o0o--

5 MS. LAFRENIERE: In reviewing the compliance
6 history, the landfill has exceeded on 129 days its daily
7 tonnage out of a possible 1448 operating days, or
8 approximately 9 percent of the time. When you look at the
9 monthly tonnage, they've exceeded 13 months out of 56
10 months, or a little over 23 percent of the time.

11 --o0o--

12 MS. LAFRENIERE: There has been a chronology of
13 actions and responses by the operator that I would like to
14 just briefly go over for your background.

15 In November of 2002, the operator, Sycamore
16 Landfill, Incorporated, applied to the City of San Diego
17 for a landfill master plan. The landfill master plan
18 included increases in tonnage and traffic. The City of
19 San Diego conducted a public scoping meeting in April of
20 2003. However, in July of 2004, the LEA issued an
21 official notice requiring a corrective action plan by
22 Sycamore Landfill, Incorporated, for violations of Public
23 Resources Code 44014(b). They were exceeding their
24 tonnage limits.

25 Sycamore responded with a corrective action plan,

1 and the LEA responded back requiring an addendum. They
2 responded with the addendum at the end of 2004, and the
3 LEA requested a modification. And this is basically to
4 fine tune the corrective action plan to bring the site
5 into compliance, for them to comply with their tonnage
6 limits.

7 Then in January of 2005, they submitted the
8 modification to the corrective action plan.

9 --o0o--

10 MS. LAFRENIERE: However, they could not fine
11 tune the corrective action plan to keep the site in
12 compliance. So in November of 2005 the LEA issued a
13 Notice and Order No. 0502 for the exceedances of daily and
14 monthly tonnage.

15 On November 15th, the operator submitted an
16 complete package for an RFI amendment. And then two weeks
17 later they changed that and resubmitted it to an
18 application for a permit revision.

19 In December of 2005 the LEA rejected the package
20 due to some deficiencies within the package itself. They
21 resubmitted in April of 2006. And again in May the LEA
22 rejected the application due to some discrepancies
23 throughout the documents. They resubmitted at the end of
24 May of 2006, and in June the LEA accepted the application
25 package for filing.

1 The LEA conducted a public hearing on the
2 proposed revised permit on July 17th.

3 --o0o--

4 MS. LAFRENIERE: On July 19th, the LEA submitted
5 the proposed permit and the application package to the
6 Board with the status of CEQA compliance.

7 Then on, as I mentioned, November 22nd, the LEA
8 adopted the negative declaration for the project. And on
9 August 23rd the LEA forwarded an updated revised permit to
10 the Board reflecting the adoption of the negative
11 declaration.

12 --o0o--

13 MS. LAFRENIERE: When looking at the exceedances,
14 I think it's important to note that on the daily tonnage,
15 the -- out of the 129 days of exceedances, 27 days the
16 operator exceeded by less than 1 percent of the maximum
17 daily tonnage, or less than 33 tons. Another 27 days it
18 was less than 66 tons, or 2 percent of the maximum daily
19 tonnage.

20 I think this is important to show that the
21 operator is putting forward a good faith effort. They
22 knew that if they exceeded even by 2 or 3 tons, the LEA
23 was going to issue them a violation for those exceedances.
24 However, they didn't just exploit the situation and
25 continue to take as much as they can. They did try to

1 maintain compliance. However, it was usually a couple
2 transfer trucks at the last 30 minutes to 45 minutes that
3 would throw them off or exceed their limits. And that's
4 as well as with the monthly cap.

5 --o0o--

6 MS. LAFRENIERE: Over the last four -- a little
7 over four and a half years, 10 percent of the time they
8 exceeded it by less than 1 percent of the maximum monthly
9 tonnage, or less than 758 tons. So they were trying to
10 maintain compliance with their permit limits.

11 --o0o--

12 MS. LAFRENIERE: There was a question raised last
13 week that I think is very important, because there's been
14 some confusion on the beneficial reuse materials that the
15 site receives. This is primarily the green materials as
16 well as the clean construction and demolition.

17 In the new application form, the application
18 requires that a number be identified for these materials.
19 In researching the tonnage records at the site, though
20 rare, on occasion the base materials, or the construction
21 demolition materials, they have received as high as 500
22 tons in one day. They may go the remainder of the month
23 without receiving any, but they have on occasion received
24 the 500 tons. So that is the number that they utilized
25 for the application form. And that is also to be said for

1 the green materials

2 As you can tell by this slide, the amount of
3 beneficial materials has been pretty steady the last three
4 years. The green waste has actually decreased from 2003,
5 from averaging from 550 tons in 2003 to around 500 tons in
6 2005.

7 And if you look at the clean construction and
8 demolition materials, they average about anywhere from 26
9 tons per day to 33 tons.

10 But, again, if there is a construction job that
11 those materials come in clean and they can be beneficially
12 reused, they import that material and allow that material
13 to be beneficially reused.

14 The clean construction and demolition again is
15 for base material for wet weather deck and internal roads.
16 And the green materials are used for alternative daily
17 cover as well as erosion control.

18 --o0o--

19 MS. LAFRENIERE: There's also some inherent
20 limitations with this beneficial reuse materials. All the
21 vehicles that are transporting materials and waste
22 including the aggregate trucks from the sand and gravel
23 operation on stage 3 of the landfill are counted towards
24 the traffic permit limit.

25 In addition, the green material processing area

1 is limited in size, thus preventing stockpiles of
2 processed and unprocessed green materials to be
3 accumulating on the site.

4 And, lastly, the landfill does have a odor
5 management plan that requires that in the event that a
6 significant quantity of green material become
7 exceptionally odorous, they are to be transferred to the
8 active area, disposed of and counted against the daily
9 tonnage limits.

10 --o0o--

11 MS. LAFRENIERE: With that, I conclude my
12 presentation, and am happy to answer any questions.

13 And I'd also like to mention again that Mr. Neil
14 Mohr represents Sycamore Landfill, Incorporated, is also
15 available for questions.

16 CHAIRPERSON MULÉ: Thank you, Rebecca. That was
17 an excellent presentation.

18 I'm sure we have some questions.

19 Who wants to start?

20 CHAIRPERSON MULÉ: Board Member Wiggins.

21 COMMITTEE MEMBER WIGGINS: My question is: Does
22 the proposed 3,965 tons per day include the 1200 tons of
23 green waste?

24 MS. LAFRENIERE: The 3,965 is for waste only to
25 be disposed of.

1 COMMITTEE MEMBER WIGGINS: So it doesn't include
2 green waste?

3 MS. LAFRENIERE: It does not include the
4 beneficial reuse materials.

5 COMMITTEE MEMBER WIGGINS: Okay.

6 MS. LAFRENIERE: However, all the vehicles
7 transporting both materials and waste are counted against
8 the traffic limit.

9 COMMITTEE MEMBER WIGGINS: Thank you.

10 CHAIRPERSON MULÉ: Board Member Peace.

11 COMMITTEE MEMBER PEACE: So is it -- on the 1200
12 tons per day is it broken out that 700 is green waste and
13 500 is beneficial reuse, or is it just 1200 a day total
14 for green waste and --

15 MS. LAFRENIERE: In the reported disposal site
16 information there's discussion on beneficial reuse
17 materials that identify what the monthly averages has
18 been. And it does say -- similar language, that on
19 occasion they do receive up to 500 tons of inert materials
20 and 700 tons per green waste. But that is not a daily --
21 they do not receive that daily.

22 COMMITTEE MEMBER PEACE: But they're authorized
23 to take that much daily? I mean it's in their permit that
24 they can take that much daily?

25 MS. LAFRENIERE: It's not in their permit. It's

1 in the reported disposal site information. The permit
2 only reflects the limit for waste disposal.

3 COMMITTEE MEMBER PEACE: Okay. So if it's in
4 their report that they can take that much, what's to say
5 that they couldn't take that much every day?

6 MS. LAFRENIERE: They would have to be able to --
7 well, first of all, the traffic. The traffic limits them
8 on the amount of vehicles that can access the site.

9 Secondly, they need to be able to utilize the
10 materials in a beneficial reuse. So that limits the
11 amount of wet weather materials as well as internal roads.
12 They cannot stockpile C&D.

13 COMMITTEE MEMBER PEACE: If they took that much
14 every day, they'd stockpile it is the difference for that.

15 MS. LAFRENIERE: Exactly. And then the green
16 waste would get odorous and we would direct them to
17 dispose of it.

18 COMMITTEE MEMBER PEACE: So they've been going
19 over their limit for quite a while. They started this
20 permit process in 2002?

21 MS. LAFRENIERE: In 2002 they applied to the City
22 of San Diego for a master plan. They knew that they
23 needed to increase the tonnage and traffic, and they have
24 some additional plans for that landfill. So it's my
25 understanding in 2002 that this permit before you would

1 have been part of that master plan. However, it has taken
2 longer than it had been anticipating, and the LEA cannot
3 wait for that master plan to go forward. We felt that we
4 needed to take enforcement action and the operator had to
5 deal with the exceedances.

6 COMMITTEE MEMBER PEACE: So where would the
7 overages had to have gone if they didn't take them?
8 Because isn't like Miramar bumping up against their limit
9 and stuff also?

10 MS. LAFRENIERE: For traffic, yes. And I
11 appreciate you bring that point up. Because part of the
12 corrective action plan that the operator implements is
13 that they monitor the tonnages received at the scale every
14 30 minutes, and they have internal levels. Once they've
15 reached that level, they start contacting various hauling
16 companies and diverting those route trucks or the trash
17 hauling trucks either to West Miramar or to Otay or even
18 out of county.

19 COMMITTEE MEMBER PEACE: So do we take any --
20 does Sycamore take any waste from out of the county?

21 MS. LAFRENIERE: I would defer to the operator.
22 No.

23 COMMITTEE MEMBER PEACE: Thank you.
24 Thank you. No more questions.

25 CHAIRPERSON MULÉ: Board Member Danzinger.

1 BOARD MEMBER DANZINGER: I'm sorry if this
2 question's already been answered, because I think it was
3 touched on in response to one of your questions, Cheryl.

4 So have we ensured -- and I don't know if it's
5 through CEQA or through the EIR -- that the increased
6 traffic commensurate with the increase in tonnage is
7 within the limits of what's allowed and what was planned
8 for? Because I don't -- you know, again, the item
9 references the proposed increase in the tonnage. It only
10 references the current maximum traffic. So I didn't know
11 if those were inn synch.

12 DEPUTY DIRECTOR LEVENSON: Member Danzinger, the
13 answer to that is yes, because the negative declaration
14 looks at the impacts of traffic. And the traffic that's
15 proposed includes those trucks that would be bringing in
16 base materials or green material for ADC or tonnage for
17 disposal. So no matter what, they can only go up to 620
18 trucks a day.

19 BOARD MEMBER DANZINGER: Okay. Thanks.

20 DEPUTY DIRECTOR LEVENSON: I'd also while I have
21 the mike just want to mention that the landfill is
22 undergoing an environmental review for a much larger
23 expansion. I don't know what the timing is on that at
24 this point, but perhaps Rebecca could comment on that,
25 just so you're aware that there is much more going on at

1 this site than just this particular revision to come into
2 compliance.

3 MS. LAFRENIERE: I was notified by the project
4 manager for the City of San Diego Development Services
5 that she had received the third screen check master EIR
6 last week. So the third screen check is under review by
7 the city.

8 CHAIRPERSON MULÉ: Okay.

9 COMMITTEE MEMBER PEACE: I just have a general
10 question. I'm not singling out Sycamore. But when they
11 can take, say, 1200 tons of ADC and beneficial reuse a
12 day, do we evaluate that, does the LEA evaluate? Say that
13 we say it should only be about 15 percent overall that we
14 use for ADC or beneficial reuse. When is it ever
15 evaluated? Is each landfill evaluated to see if they like
16 go way over that during the year or during the month?

17 DEPUTY DIRECTOR LEVENSON: Ms. Peace, there's a
18 couple ways to answer that. First of all, the LEAs are
19 out there doing their monthly inspections. And we have --
20 the ADC regulations have technical limits on how much can
21 be used, depending on the material type, and the LEA is
22 checking for that on their monthly inspections.

23 We also work with our own -- our Waste Analysis
24 Branch and the DPLA Division to look at overall ADC usage
25 at individual sites. And in years past when we have

1 noticed a higher percentage being reported as ADC, we have
2 gone out and done field investigations between -- joint
3 field investigations between the Permitting & Enforcement
4 Division and the Diversion, Planning & Location Assistance
5 Division and brought those results to the Board. We've
6 even come to the Board first to even initiate that kind of
7 field investigation.

8 So those are things that when we do notice
9 transits seem potentially anomalous, you know, we do do an
10 independent kind of investigation of those. And in some
11 cases there have been changes in what was reported, and
12 it's resulted in fee changes, the DRS and BOE kind of
13 reporting.

14 COMMITTEE MEMBER PEACE: Okay. Because the fee
15 to us is not paid on ADC, is that correct, or beneficial
16 reuse?

17 DEPUTY DIRECTOR LEVENSON: That's correct.

18 MS. LAFRENIERE: Also, if I could point out too,
19 not only is the amount of alternative daily cover
20 evaluated every month, but also the application of the
21 material for erosion control, to ensure that it's not
22 being overused or applied too deeply.

23 COMMITTEE MEMBER PEACE: Okay. So that they
24 are -- see, the proposed remaining capacity, that's like
25 more than doubled since the time that they bought the

1 landfill in '92, right? So -- boy, that sounds like you
2 guys got a good deal.

3 CHAIRPERSON MULÉ: But they didn't purchase it
4 till '97.

5 COMMITTEE MEMBER PEACE: Yeah, that sounds like
6 they got a good deal here.

7 I guess the only other question I have is what
8 was in the City of Santee letter where they questioned,
9 you know, the days of operation, where they wanted to
10 limit the days of operation just to six and to have them
11 closed on Sunday. You'd said in their -- all their
12 previous permits they always had been able to be open on
13 Sunday.

14 MS. LAFRENIERE: That is correct.

15 COMMITTEE MEMBER PEACE: But in the previous one
16 it looks to me like they also put like a monthly cap
17 though on that. It was -- there was no limit on Sunday,
18 but they put a monthly cap, which actually would turn out
19 to be about 23 operating days a month, which in essence
20 did limit them to not be open on Sunday.

21 MS. LAFRENIERE: Under this environment document
22 that was prepared for the project, it was identified that
23 the monthly limit was being eliminated, and so the traffic
24 study was -- the baseline is the seven days per week.

25 COMMITTEE MEMBER PEACE: So this monthly -- the

1 tonnage limit wasn't something that was negotiated like
2 with the city in previous permits and that's something
3 that they really wanted?

4 MS. LAFRENIERE: If there were negotiations, I
5 apologize, it predated my employment with the city. I can
6 only tell you what the project that we processed today is.

7 COMMITTEE MEMBER PEACE: And do you know why it
8 is that they only want the landfill operating six days a
9 week and not on Sunday? Is it like right in the middle of
10 a park area? I mean why do you think that is?

11 MS. LAFRENIERE: I would --

12 COMMITTEE MEMBER PEACE: Like the City of Santee
13 doesn't --

14 MS. LAFRENIERE: I wouldn't want to speculate on
15 the City of Santee's position.

16 I would like to mention that the operator, though
17 the permit allows them to operate seven days per week, in
18 the reported disposal site information they do know
19 that they are not currently operating on Sundays.

20 COMMITTEE MEMBER PEACE: Right, um-hmm. No, I
21 realize that. But I said with the limit per month, in
22 essence it is limiting their operations to six days a week
23 with that limit.

24 Okay. Those are my questions.

25 BOARD CHAIRPERSON BROWN: I have a question.

1 Howard, other than this letter from the City of
2 Santee, have they contacted you? Or is there anybody here
3 from the City of Santee that maybe can answer any of our
4 questions?

5 DEPUTY DIRECTOR LEVENSON: We're looking around.
6 But I believe that that is the only contact that we've
7 had.

8 Let me just ask Tad if he's -- he's our staff
9 person directly responsible for this site -- if he's had
10 any contact.

11 MR. GEBRE-HAWARIAT: We had received a call from
12 Mr. Bob Epler representing the City of Santee. We
13 provided him with the information of when the Committee
14 meeting would be, the date and the time. He was also part
15 of a group of people that was included in our notification
16 list, and as well as a member of the City of Santee, a
17 person who attended the public hearing. They were all
18 notified about the Committee meeting. And that's the
19 latest.

20 CHAIRPERSON MULÉ: Yeah, I had heard that we
21 may -- there was supposed to be representation from the
22 city here. I mean that was -- I was told there might be
23 some representation from the City of Santee here. But
24 apparently they're not, they haven't showed up. So --

25 BOARD CHAIRPERSON BROWN: Okay. I feel like your

1 presentation has adequately answered my questions from
2 their letter. So thank you for doing a very thorough job
3 on that presentation. Appreciate that.

4 CHAIRPERSON MULÉ: Are there -- Board Member
5 Wiggins.

6 COMMITTEE MEMBER WIGGINS: Well, on the letter
7 from the City of Santee, they say that the current
8 lists -- the Sunday is a day of operation. And it hasn't
9 been open since 1999. But it was always permitted to have
10 Sunday operations, wasn't it?

11 MS. LAFRENIERE: That is correct.

12 COMMITTEE MEMBER WIGGINS: Yeah. So I don't
13 see -- I mean I can see their problem because they're
14 neighbors. But I don't see the basis of this argument.

15 CHAIRPERSON MULÉ: And I just have a couple of
16 quick questions here.

17 First of all, since we're talking about Sunday
18 operation, I mean does the operator -- do you intend on
19 operating on Sundays? And any time in the near future,
20 Neil, you might want to come up and answer that question.
21 I mean because I know that if you already have that in
22 your permit, you're not going to want to take that out,
23 and I understand that. But maybe just for everyone's sake
24 here, if you have any plans to operate on Sunday, that
25 might be good for us to know.

1 MR. MOHR: Good morning. My name is Neil Mohr.
2 I'm with Sycamore Landfill. And at this time, no, we
3 don't have plans. We work with the transfer stations.
4 They are open on Sundays to take some waste, and it moves
5 out on Mondays. And the City San Diego's landfill is open
6 on Sunday.

7 CHAIRPERSON MULÉ: Right. Okay, very good.

8 And then just one more question. I mean I know
9 that we're more than doubling the remaining capacity.
10 And, again, in reading this, there's no calculation that
11 had been done since 1992. And I just have to ask this
12 question. I mean when the company was doing their due
13 diligence to purchase all these facilities that you
14 purchased in San Diego County, I mean didn't anybody look
15 at that and question those calculations? I mean we're
16 more than doubling the capacity. And so I'm just
17 wondering how a recalculation can cause more than double
18 the remaining capacity.

19 MR. MOHR: It's certainly a good question. I
20 understand it. And, you know, we certainly were surprised
21 when we saw that. But it's the way that the calculations
22 had been done. There was a number in the permit was
23 remaining capacity. So since we've taken operations, we
24 have always -- as Rebecca showed in her slide, inactive in
25 stage 1. So what we've done is simply -- you know,

1 annually we do our aerial survey, digitize maps, look at
2 our used capacity, calculate our densities, and then just
3 subtract our used capacity from that.

4 We did not look at the calculations in the other
5 stages. When we did, using the method that the Waste
6 Board has in their new permit application, it's base of
7 grade to top of grade. And we saw that when the
8 calculations were done for the county, they did not take
9 into consideration the excavation of soil. They made an
10 assumption it was just a balanced site, so they just
11 looked at that. And that's where the number difference
12 is.

13 The other reference to light increasing is
14 that -- you know, as Rebecca mentioned, as we get more
15 efficient in how we manage our waste and the densities
16 improve, that will also add life to the site.

17 DEPUTY DIRECTOR LEVENSON: Madam Chair, if I --
18 Yes.

19 I'd like to just add two comments on that. One
20 is that we have had engineering staff in the Permitting
21 and Enforcement Division review the calculations on the
22 new permit application and concur with those revised
23 calculations.

24 I'd also want to point out that the application
25 itself, which -- the regulations for those became

1 effective over a year ago. We are going to be seeing more
2 specific information about all of these kinds of topics.
3 The beneficial reuse, numbers are required on the
4 different materials that are used. There's a new method
5 for calculating remaining capacity, along with
6 requirements for periodic surveys. So I think we're going
7 to have more and more accurate information on a lot of
8 these features of landfill operations for the Board's
9 perusal in the future.

10 CHAIRPERSON MULÉ: That's great, Howard, because
11 that was going to be my next question, is: Will we be
12 seeing this down the road in future applications?

13 Okay. So with that, are there any more
14 questions?

15 And if not, do I have a motion?

16 COMMITTEE MEMBER PEACE: I know San Diego is
17 really booming and it's growing. So we do need this
18 capacity. Unless we're going to demand more producer
19 responsibility, increase the diversion rate to 75 percent,
20 site a CT, I guess we're going to need more disposal
21 capacity here.

22 So I guess with that, I will move Resolution No.
23 2006-160.

24 COMMITTEE MEMBER WIGGINS: Second.

25 CHAIRPERSON MULÉ: Moved by Board Member Peace,

1 seconded by Board Member Wiggins.
2 Donnell, please call the roll.
3 SECRETARY DUCLO: Members Peace?
4 COMMITTEE MEMBER PEACE: Aye.
5 SECRETARY DUCLO: Wiggins?
6 COMMITTEE MEMBER WIGGINS: Aye.
7 SECRETARY DUCLO: Chair Mulé?
8 CHAIRPERSON MULÉ: Aye.
9 We'll put that one on consent as well.
10 Thank you, all, very much. Great job, Rebecca.
11 Thank you for the very thorough presentation. We
12 appreciate it.
13 Okay, Howard, our next item is Item -- Committee
14 Item F.
15 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
16 Chair.
17 Item 5 on the Board agenda is:
18 Consideration of a New Full Solid Waste
19 Facilities Permit for Looney Bins/the East Valley
20 Diversion Facility in the City of Los Angeles.
21 Willy Jenkins will be making that presentation.
22 CHAIRPERSON MULÉ: Good morning.
23 MR. JENKINS: Good morning.
24 Also here for this item today are Myan
25 Spaccarelli and Mike Hammer for Looney Bins, Incorporated,

1 and David Thompson of the LEA.

2 The proposed permit would allow the following
3 hours of operation: Monday through Sunday, 24 hours per
4 day, for material acceptance, processing and transfer.

5 The proposed tonnage is 750 tons per day.

6 Proposed traffic volume is 250 vehicles per day. And this
7 siting will be operated on a -- this operation will be a
8 two-acre site.

9 Additionally, on August 31st, 2006, Board staff
10 received confirmation from the LEA that the operator had
11 received evidence of compliance for the facility Fire
12 Prevention Control and Mitigation Plan from the city fire
13 department. Therefore, Board staff have determined that
14 all the requirements of the proposed permit had been
15 fulfilled.

16 Board staff recommends that the Board adopt Board
17 Resolution No. 2006-161, concurring with the issuance of
18 Solid Waste Facilities Permit No. 19-AR-1223.

19 This concludes staff's presentation.

20 CHAIRPERSON MULÉ: Thank you, Willy.

21 Do we have any questions for either the operator
22 or the --

23 COMMITTEE MEMBER PEACE: This is the only
24 question I have. When I read about the community
25 outreach, it said that you had several attendees that had

1 questions regarding traffic and dust and litter and so
2 forth. And it said several measures were proposed by the
3 attendees. Could you tell me what those measures were?
4 And were any of those incorporated into the permit?

5 MR. JENKINS: The operator would like to address
6 those issues.

7 CHAIRPERSON MULÉ: Come on up, Mike.
8 State your name for the record please.

9 MR. HAMMER: Mike Hammer with Looney Bins.

10 Yeah, there were I think ten members of the
11 community, most of them from the neighborhood council.
12 They had some concerns about dust and trafficking were
13 there main concerns. And so some things that we've done
14 is we're having this -- the road in front and the median
15 professionally swept on a weekly basis. We hand-sweep it
16 twice a day, because it -- I don't know if you're familiar
17 with the site, but there's Vulcan materials that gets a
18 couple thousand trucks a day. It's not too far from
19 Bradley landfill. So that general intersection where our
20 facility's located gets a lot of truck trafficking.

21 So they're not so concerned saying that there's
22 dust coming out of the facility, but more the trucks
23 trafficking dust out into the road. So we hand-sweep it
24 twice a day. Then a street sweeper comes on a weekly
25 basis. We're putting misting around the entire perimeter

1 of the yard. We water hose each of the piles now when
2 they're being dumped.

3 Vectors were mentioned. But we have a
4 professional vector service that comes as needed, but at
5 least once a month. And because we get the residual out
6 in 48 hours, that does not seem to be a problem because
7 it's mainly wood, drywall, metal and cardboard, and
8 residual's taken out on a -- you know, at least 48 hours.
9 So we're doing that.

10 We're building the walls a little bit higher. We
11 took down razor wire. We put bougainvillea. And we're
12 putting nice new nets. You know, those are the main
13 things.

14 Truck trafficking, there's only one entrance to
15 the facility. And then the trucks end up doing
16 three-point turns and turning around and coming out the
17 same entrance.

18 We're working with city council and the
19 neighborhood councils to try and get an additional exit to
20 the facility where you'd actually leave and go out on
21 Glenn Oaks instead of coming in, leaving off of Sheldon
22 Street, which they're real excited about. We're actually
23 in unity on working to try and get that achieved, which I
24 think is a great thing.

25 So those are I'd say the main things that we've

1 done.

2 You know, when we had our public hearing two
3 years ago for the registration permit, all the suggestions
4 that they made, we implemented those very quickly, and
5 that's what we're doing on these. And I invited them out
6 and three of them came out, and we spent three hours. And
7 they're suggestions, unless they say stop operating
8 completely -- you know, they're generally pretty
9 reasonable, and we work with the community because we want
10 to be there a long time.

11 COMMITTEE MEMBER PEACE: Okay. Thank you.
12 That's what I like to hear.

13 MR. HAMMER: Okay. Any other questions?

14 CHAIRPERSON MULÉ: Board Member Wiggins, do you
15 have any questions on --

16 COMMITTEE MEMBER WIGGINS: No.

17 CHAIRPERSON MULÉ: No on Item 5. Okay.

18 So with that, do I have a motion?

19 COMMITTEE MEMBER PEACE: I'd like to move
20 Resolution No. 2006-161 revised.

21 COMMITTEE MEMBER WIGGINS: Second.

22 CHAIRPERSON MULÉ: Moved by Member Peace,
23 seconded by Member Wiggins.

24 Let's substitute the previous roll. And we can
25 put that one on consent agenda as well.

1 Thank you very much. Thank you.

2 You have another item?

3 MR. JENKINS: Yes, if I can stop you right here.

4 Myan Spaccarelli wanted to address the Committee.

5 CHAIRPERSON MULÉ: Oh, please. I'm so sorry.

6 MR. JENKINS: That's all right.

7 CHAIRPERSON MULÉ: Come on up.

8 Please state your name for the record.

9 MR. SPACCARELLI: Myan Spaccarelli.

10 You know what, I want to talk about what I

11 believe to be the state of recycling in the City of Los

12 Angeles. And got to be careful how I talk about it,

13 because I'm not really encouraged by the amount of support

14 and the current situation.

15 Kind of what's happening behind the scenes right

16 now is we initially applied for our permit to be 1500 tons

17 per day daily capacity, with a spike of 2,000 tons --

18 CHAIRPERSON MULÉ: Are you talking on Item 6 or

19 Item 5?

20 MR. SPACCARELLI: Okay.

21 CHAIRPERSON MULÉ: Item 6?

22 MR. SPACCARELLI: I'm sorry.

23 CHAIRPERSON MULÉ: You know, let's have staff

24 make their presentation on Item 6.

25 MR. SPACCARELLI: Okay.

1 CHAIRPERSON MULÉ: And then we'll have you come
2 up and speak. Okay?

3 MR. SPACCARELLI: I'll be back.

4 CHAIRPERSON MULÉ: Okay. Thank you.

5 All right. Willy, go ahead. Board Agenda Item
6 6?

7 MR. JENKINS: Good morning.

8 The proposed permit. The Looney Bins/Downtown
9 Diversion proposed permit would allow the following:
10 Proposed hours of operation, Monday through
11 Sunday, 24 hours per day, for material acceptance,
12 processing and transfer.

13 Proposed tonnage is 1500 tons per day, 10,500
14 tons per week.

15 Proposed traffic volume is 400 vehicles per day.

16 And also regarding this site, on August 31st,
17 2006, Board staff received confirmation from the LEA that
18 the facility Fire Prevention Control and Mitigation Plan
19 for the city fire department had been approved.

20 Therefore, Board staff have determined that all
21 the requirements nor the proposed permit have been
22 fulfilled.

23 Staff recommends that Board adopt Resolution No.
24 2006-162, concurring with the issuance of Solid Waste
25 Facilities Permit No. 19-AR-1224.

1 Now, the operator would like to address this.

2 CHAIRPERSON MULÉ: Now we're ready for you.

3 Come on up and speak to us.

4 Thank you, Willy.

5 MR. JENKINS: You're welcome.

6 MR. SPACCARELLI: Thanks, Willy.

7 CHAIRPERSON MULÉ: Good morning again.

8 MR. SPACCARELLI: Morning again.

9 But, anyway, you know, I was mentioning kind of
10 behind the scenes is we've been operating with the
11 understanding that we could operate at 1500 tons per day,
12 with a spike of 2,000 tons as necessary, and the average
13 being 10,500 tons per week.

14 And, you know, through the process now we're
15 being told we need to amend it to state that. So it's
16 going to take more time to operate in the condition that
17 we've already been operating under. And it's just a
18 frustrating process, you know. The agenda item before us
19 is the landfill getting, you know, the capacity
20 potentially doubled. And on recycling side, we seem to
21 run into so many different obstacles.

22 We in Los Angeles compete against the county
23 landfill. Our tonnage rate is \$44 a ton, while we're
24 competing against a \$27 a ton landfill that is not
25 supposed to be accepting debris that should come to our

1 facility. We have days where our tonnage is under 400
2 tons, sometimes around 300 tons for that particular day.

3 It's next to impossible to exist under those
4 conditions. And we need to get some more support on these
5 issues.

6 And now it comes up where we have our permitting
7 meeting, we have absolutely no operation in downtown. We
8 won facility of the year last year. You know, it's an
9 emotional issue for me, because you guys granted us an
10 RMDZ loan for the facility, which we absolutely
11 appreciate, but it's a personal guarantee. You know, it's
12 us having to come up with the payment. You know, I -- you
13 know, without actual evidence I can assure you that our
14 rental rates are higher than, you know, other areas around
15 the state. But they get different support and their
16 recyc -- their incoming rates are -- like Santa Monica --
17 or Santa Barbara I think it's in the high 60s and Fresno
18 is in the high 50s. And we're trying to exist at \$44 a
19 ton. And now we're being told that our peak capacity has
20 to be reduced from 2,000 to 1500 tons a day. That extra
21 500 tons that comes up is tonnage that we need.

22 And, you know, I want to propose a question of:
23 Why are lines at our facility so small and the lines at
24 the landfill so long? You talked about increased
25 diversion requirements for San Diego and other stuff.

1 Well, who would want to build a facility down there when
2 it's not being supported? I mean, you know, what -- who's
3 going to put their -- you know, who's going to sign a \$2
4 million loan, personal guarantee, raise the roof of the
5 building, pay extremely high rent, go through all the
6 issues of, you know, separating the material and then not
7 really feel generally supported on those kind of things.
8 It's not a step -- it's not a direction that we want to go
9 in. I don't think it's a direction that the state wants
10 to go in.

11 So any questions?

12 CHAIRPERSON MULÉ: Mr. Spaccarelli, can I ask
13 you -- when I read this it says, yes, the maximum is 1500
14 tons per day. Yet you're telling us that there was an
15 agreement that you could go up to 2,000 tons per day. Is
16 there anything in writing that you can show us that would
17 support your case? Because we can only approve what's
18 brought before us.

19 MR. HAMMER: Yeah. I --

20 CHAIRPERSON MULÉ: And could you state your name
21 for the record please.

22 MR. HAMMER: Mike Hammer again with Looney Bins.

23 I just found that out this morning.

24 I think what Myan's expressing is some
25 frustration. Our permit application on this facility was

1 actually submitted in middle of July with a 10,500 ton per
2 week limit and a 2,000 ton per day daily limit. After our
3 state inspection, which I happened to be in Europe during
4 that time, I guess there was some confusion between
5 average daily limits and peak daily limits. And while I
6 was in Europe this permit application got revised to 1500
7 tons on a daily peak, and that's what got submitted up to
8 the Board.

9 And, you know, over the past two and a half
10 years, we've exceeded 1500 tons nine or ten times. But
11 we've been told that now, in writing what's before you, is
12 you can only make a decision based on a daily peak limit
13 of 1500. We were told that we'd be able to have the
14 discussion with you guys this morning about whether we
15 could be at 2,000 on a daily average but, you know, 10,500
16 on a weekly average, which is the understanding we've been
17 operating ever since we began the facility and worked with
18 the LEA. And the fact that we've exceeded 1500 almost ten
19 times in two years never had a concern, never had a
20 violation, because that was -- that's been understood the
21 whole time and --

22 CHAIRPERSON MULÉ: Okay.

23 MR. HAMMER: So that's where probably the
24 frustration you're hearing is --

25 CHAIRPERSON MULÉ: Okay. What I'm going to do is

1 I'm going to ask staff to explain this further to us. And
2 also if the LEA is here and if they want to add anything,
3 okay, please feel free to come up and explain, you know,
4 the discrepancy in what the permit application says and
5 what the applicant is requesting.

6 Thank you.

7 Howard.

8 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
9 Chair. And actually I'm going to mostly ask the LEA to
10 come up and explain this.

11 But what you have before you is a permit that
12 reflects the application for 1500 tons per day. It's my
13 understanding from staff that that is the figure that was
14 in the application. But we can ask the -- okay.

15 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

16 We've got to define terms.

17 Mark de Bie with Permitting and Inspection.

18 There's an application that's filled out by the
19 applicant. You heard the applicant say that they filled
20 it out with 2,000 in it. There's a proposed permit that
21 the LEA writes that has 1500 in it. So there's two
22 different things: Application, permit. So the applicant
23 is indicating that they submitted an application for 2000
24 tons per day weekly limit. The LEA originally did
25 submit -- and they'll tell you -- a permit for 2,000.

1 They pulled it back and resubmitted a permit for 1500 tons
2 per day. And that's what's in front of the Board today.

3 CHAIRPERSON MULÉ: Okay. Well, then maybe the
4 LEA can explain why you changed the number from 2,000 to
5 1500 tons a day.

6 Thank you.

7 And would you please state your name for the
8 record. Thank you.

9 MR. THOMPSON: David Thompson. And I'm the
10 program supervisor with the City of Los Angeles Local
11 Enforcement Agency.

12 The permitting of this site goes back to August
13 of 2003. That's when the C&D regs came into effect. This
14 facility was proposed at that time. It was proposed for a
15 1,500 ton per day processing maximum.

16 There was nothing on the ground at the time when
17 the regs came into effect. They had purchased the
18 equipment. They had signed the lease. The city planning
19 department issued a Notice of Exemptions for this process
20 as an existing facility.

21 When we issued the temporary registration permit,
22 the application -- on the application itself it stated
23 1,500 tons per day. But in the operations plan it talked
24 about the 2,000 ton per day limit with a 10,500 ton per
25 day -- or per week maximum. And that would go to the

1 maximum processing of 1,500 tons per day. In the NDFE it
2 also says there's the capability of processing 1,500 tons
3 per day.

4 So when we were going through this permitting
5 process, we accepted the application. On the application,
6 once again, it said 1,500 tons per day on the application.
7 But in the report -- facility report it said 2,000 tons
8 with the 10,500 ton per day -- or per week limit.

9 We went forward at our community meeting with the
10 2,000 ton per day, 10,500 ton per week discussion. We
11 originally submitted the proposed permit with those limits
12 as part of the permit. After the state inspection with
13 Mr. Jenkins, it was discussed that the CEQA didn't really
14 address the 2,000 ton per day limit. So he suggested for
15 this permit to go forward that the LEA change the permit
16 to the 1,500 tons per day, and that's what we did.

17 So I think it's important to get the full permit
18 on this site, and with the idea that we could have this
19 discussion here. Maybe this was not the right approach.
20 But the LEA is willing to take whatever recommendation you
21 have on how to process this. If it should be 1,500 ton
22 per day and then we go forward or --

23 BOARD MEMBER DANZINGER: I'm -- go ahead. I'm
24 sorry.

25 CHAIRPERSON MULÉ: We're going to have Board

1 Member Wiggins, then Board Member Danzinger.

2 COMMITTEE MEMBER WIGGINS: Who suggested that you
3 change it back to 1500 from 2,000?

4 MR. THOMPSON: Waste Board staff.

5 COMMITTEE MEMBER WIGGINS: Our staff?

6 MR. THOMPSON: Yes.

7 COMMITTEE MEMBER WIGGINS: Oh.

8 CHAIRPERSON MULÉ: Board Member Danzinger.

9 BOARD MEMBER DANZINGER: I'm just curious. How
10 clear -- because you say there was a discussion and that
11 CEQA didn't support 2,000 tons. I'm just -- I mean I
12 would generally expect that to be a more formalized
13 process. I mean so I'm just wondering, is there something
14 explicit in CEQA that clearly makes 2,000 not workable, or
15 was that a judgment call, you know, at the moment?

16 CHAIRPERSON MULÉ: That's my question. Thank
17 you.

18 MR. THOMPSON: For that it was the Waste Board
19 staff's recommendation on this. So -- I think what the
20 problem is, there wasn't -- the baseline's very fuzzy what
21 is actually considered as a baseline for the site.

22 Willy, you want to --

23 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

24 If I may -- Mark de Bie with Permitting and
25 Inspection -- a little history lesson too about C&D sites.

1 When these regs were first put in place, as Dave
2 was saying, there was a grandfathering clause included,
3 that if you're a C&D site and you're up and running and
4 then these regs came into effect, those existing sites
5 could get what was referred to as a temporary registration
6 permit level. And so that the Looney -- both Looney Bin
7 sites took advantage of that grandfathering clause and
8 were able to continue operating after the regs were put
9 into place, even though they -- per those regs, they
10 needed to have a full permit. But they were able to
11 operate under a registration permit.

12 That grandfather clause had a timeframe where
13 eventually the site had to come in and get the appropriate
14 level permit, which in this case is a full permit.

15 As we've -- as the Committee has seen and the
16 Board's seen in the past with compost sites in a very
17 similar situation, staff works with the LEA to determine
18 what the baseline is of these sites so that when we move
19 from one permit to the next level, we're basically --
20 there's an awareness of whether or not there's an increase
21 in the entitlement occurring or if it's just maintaining
22 the status quo.

23 And many times with the compost sites it's just
24 been -- the only action is to change the type of permit.
25 And the site is not changing at all, the same amount is

1 being processed, that sort of thing. And that was the
2 case with the East Valley site, is that what they had
3 always been taking is what they will continue taking.

4 Now, with this site, it looked like, based on our
5 read of the records, is that they were asking for a permit
6 that would allow them to take 500 tons more per day than
7 they had been able to demonstrate. The operators
8 indicated that they do have records to indicate that at
9 least ten times in the last two and a half years they've
10 done 2,000.

11 We don't have a permit in front of you that says
12 every once in a while we'll take 2,000. It says 2,000
13 every single day. The permit says 1500. The operator is
14 saying they want a permit that says 2,000 every single
15 day. That looks to staff as an increase, a change, an
16 expansion in use beyond what they have been able to
17 demonstrate is what typically happens at that site.

18 So what staff does is provides counsel to the LEA
19 about what our view is. The LEA takes that counsel and
20 makes a decision. In this case the LEA made a decision to
21 pull back a permit that said 2,000 tons per day and
22 resubmit a permit that says 1500 tons per day.

23 If the LEA would like to pull this permit back
24 and resubmit one that says 2,000, staff would look at
25 that, we would come to the Board with a recommendation on

1 whether or not the record supports a permit that would
2 allow 2,000 tons per day.

3 I think right now staff would need a lot more
4 information that says that the impacts associated with a
5 site that's allowed to take 2,000 tons per day have been
6 adequately addressed in CEQA. There's basically no CEQA
7 for this Solid Waste Facility Permit. As Dave said, when
8 they started up in to our process under the temporary
9 registration, it was done through an exemption. There was
10 no review, absolutely no review. And my recollection was
11 it was an undeveloped lot at that time. There were no
12 activities occurring when they were issued that
13 registration permit.

14 So to move from that scenario the last time the
15 Board looked at this to 2,000, I think we would need to
16 work with the operator, work with the LEA, see what the
17 record includes relative to that 2,000, and then base a
18 recommendation on that.

19 Right now we're confident that we can support a
20 permit for 1500 tons per day. There is good solid
21 evidence that that's typically what they do at this site.

22 CHAIRPERSON MULÉ: And I'm fine with that. But
23 then I guess my question is that, if the operator wanted a
24 permit for 2,000 tons a day, why didn't we go through that
25 process of 2,000 tons per day?

1 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

2 "We" meaning the Board or the LEA?

3 CHAIRPERSON MULÉ: The LEA. I mean this all

4 should have happened at the local level, in my opinion.

5 So, yeah, I guess my -- I'm a little confused -- you know,

6 you're telling me, Dave, that -- or telling us that, you

7 know, our staff is telling you one thing. But, again, I

8 mean to me, if the operator is telling you, "No, we want

9 the permit to be 2,000 tons per day," then maybe you

10 should have pulled that permit back and worked out the

11 2,000 tons a day so the operator could have done the work

12 that they needed to do to get to the 2,000 tons per day.

13 BOARD MEMBER DANZINGER: Yeah, I'm going to echo

14 that, because the impression I've gotten from the LEA

15 today is that, you know, "Board, if you want to work this

16 out, you know, whether it's 1500 or 2,000, then fine,"

17 which seems to indicate to me that you don't on its face

18 have an issue with 2,000 as long as it's done right

19 through the CEQA process, ER or whatever. So, yeah,

20 that's what has me confused, is that we're dabbling in

21 things that, you know, could be dealt with at the local

22 level.

23 And also a quick question. And I'm confused on

24 this. Maybe this is just because it's under the temporary

25 waiver. But you mentioned that they've reached the 2,000

1 tons per day on several occasions, but I don't see any
2 violations noted. And that would normally be a violation.
3 But is it not because they're under the waiver? Or is it
4 that there was sort of a 1500, 2,000 -- you know, at the
5 local level that's fine either way and then we'll see what
6 the permit looks like. But was that -- you know.

7 CHAIRPERSON MULÉ: Thank you, Board Member
8 Danzinger.

9 Does anybody want to respond to any of this?

10 MR. THOMPSON: The temporary registration permit
11 that was issued back in 2004, part of that application
12 package, you have the registration application, plus an
13 operations plan -- construction demolition operations
14 plan. In that operations plan, it talks -- that was
15 approved talks about being able to go up to 2,000 tons per
16 day.

17 But the most important thing is that it's the
18 1,500 ton per day maximum processing that we're talking
19 about here. That's the 10,500 tons per week. If you
20 break that down by seven days, it ends up being 1,500 tons
21 per day.

22 This material, once it comes on to the site,
23 according to the regulations has 15 days to be processed.
24 The facility is being able to process the material a lot
25 shorter time than that.

1 CHAIRPERSON MULÉ: So, Dave, are you saying then
2 that the permit -- the operator would accept 2,000 tons a
3 day and process 1500 tons a day under the current permit?
4 Is that what you're saying?

5 MR. THOMPSON: What happens is the incoming
6 tonnage, as Myan was explaining, kind of fluctuates,
7 depending on landfills and all. They have the capacity on
8 site to stockpile material. And their equipment can
9 process 1500 tons per day.

10 If you look at a weekly average, they cannot take
11 more than 1500 tons per day. So one day they might take
12 2,000 tons, the next day 500 tons.

13 CHAIRPERSON MULÉ: Right.

14 MR. THOMPSON: Overall they're within their
15 maximum processing. And that's what was approved in the
16 NDFE. It talks about the maximum processing is 1500 tons
17 per day. Unlike the sun -- or the Sun Valley site that we
18 heard previously, it talks about 750 tons per day received
19 and processed in the NDFE. So that's kind of where we
20 came from.

21 CHAIRPERSON MULÉ: So the operator though is
22 asking to process up to 2,000 tons per day?

23 Mike, do you want to clarify this? I really
24 think this all should have been straightened out at your
25 local level a while ago. But go ahead.

1 MR. HAMMER: Well, and this just came up this
2 week. So we thought we'd have the discussion here. If
3 pulling it, discussing it and coming back is the best way
4 to approach it, I'm open to that.

5 All we're talking about is the incoming material.
6 It fluctuates so much. Like on one day, if it's 1500 tons
7 or 1600 tons, the next day it's 400. We're still limiting
8 it to the weekly 1500 -- you know, 10,500. We're not
9 asking for any increase. So when it said, well, you're
10 increasing to 2,000 tons a day, no, we still have the
11 weekly limit in place. We're not going to process any
12 more material. We're still under the truck trips. It was
13 just on a peak day. Because like last week, Monday, we
14 had 400 tons, Wednesday we had 1100 tons. It goes up and
15 down.

16 So if the best way to approach it is pull this,
17 put 2,000 tons --

18 BOARD MEMBER DANZINGER: Yeah, this needs to
19 end -- this needs to stop right now, I mean, frankly.
20 This item just needs to stop.

21 Is the timing there -- is the timing there to
22 pull back and work on it? And also I mean, if -- you
23 know, because -- I mean I wouldn't want to vote on 1500
24 and then put the operator through a whole new --

25 CHAIRPERSON MULÉ: But Board Member Danzinger,

1 you're not voting on this one today.

2 BOARD MEMBER DANZINGER: I know. But I just
3 mean --

4 (Laughter.)

5 BOARD MEMBER DANZINGER: -- if it went forward
6 and went to the Board meeting.

7 CHAIRPERSON MULÉ: You're right. But I think
8 Howard is going to recommend that.

9 DEPUTY DIRECTOR LEVENSON: Madam Chair, what we
10 have before us is a proposed permit with 1500 tons per
11 day. That's -- the staff counseling of the LEA is based
12 on the various documents that we've seen that have 1500
13 tons per day. The information that the operator and the
14 LEA have provided today that there's been historical
15 tonnages that have exceeded 1500 tons is something
16 that's -- I believe is new to us as staff. And that would
17 be something we need to look at and make sure that we're
18 comfortable that there are no additional impacts
19 associated with that.

20 Now, having said that, if the operator and the
21 LEA agree to withdraw the permit, that would -- and we
22 return that to them so that they can work on this with us
23 and try to work this out, that would stop the clock. We
24 wouldn't have to worry about that. They could revise the
25 permit based on any deliberations then ensue from here and

1 come back with a new proposed permit.

2 But we're going to have to take a look at the
3 historical information that's been presented today, at the
4 impacts, to make sure that we're comfortable with that as
5 well. So that's an option for the operator and the LEA to
6 do that. It's not something that we, the staff, can do.

7 CHAIRPERSON MULÉ: Okay. So I just want to check
8 with legal counsel. How do we go about this?

9 STAFF COUNSEL BLEDSOE: Madam Chair, if the --
10 Michael Bledsoe from the Legal Office. If the operator
11 and the LEA wish to withdraw this permit, they can so
12 inform us verbally.

13 CHAIRPERSON MULÉ: They can do so immediately?

14 STAFF COUNSEL BLEDSOE: Yes.

15 MR. HAMMER: And then we revise it and come back
16 in 30 days or 60 days?

17 STAFF COUNSEL BLEDSOE: Well, submit a new
18 application. Maybe the old application with one number
19 change will work. I really don't know because I don't
20 know what the underlying facts are. This is really going
21 to rest on what the CEQA approval was back at the time of
22 the registration --

23 CHAIRPERSON MULÉ: Right.

24 So does the operator and the LEA wish to withdraw
25 this application to the Waste Board?

1 MR. HAMMER: Yes.

2 MR. THOMPSON: Sure.

3 CHAIRPERSON MULÉ: Could you go on the record
4 please.

5 MR. THOMPSON: Yes.

6 CHAIRPERSON MULÉ: Okay. So we have agreement
7 that the operator and the LEA wish to withdraw this. So
8 we will not act on this permit.

9 Okay.

10 BOARD MEMBER DANZINGER: Thanks, Howard.

11 CHAIRPERSON MULÉ: Board Member Wiggins.

12 COMMITTEE MEMBER WIGGINS: Yes. Would an
13 increase of 500 tons -- I mean I support the idea since
14 the weekly average is still restricted to 10,500. What
15 difference does it make if they take 2,000 in a day? But
16 would that increase require a negative dec or any
17 additional --

18 CHAIRPERSON MULÉ: But that's what they need to
19 do at the local level.

20 COMMITTEE MEMBER WIGGINS: Is they --

21 CHAIRPERSON MULÉ: They need to determine that at
22 the local level. And, see, we're going to learn all this
23 in Permitting 101 later today.

24 (Laughter.)

25 CHAIRPERSON MULÉ: So stay tuned.

1 COMMITTEE MEMBER WIGGINS: Thank you.

2 CHAIRPERSON MULÉ: Okay. Thank you, all, very
3 much.

4 Howard, our next item is Committee Item H.

5 DEPUTY DIRECTOR LEVENSON: Okay. This item is:

6 Consideration of a Revised Full Solid Waste
7 Facilities Permit for the Sacramento Recycling and
8 Transfer Station in Sacramento County.

9 Mark is going to handle this one in Mary
10 Madison-Johnson's absence.

11 CHAIRPERSON MULÉ: Okay. Good morning.

12 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13 Good morning. Mark de Bie with Permitting and
14 Inspection. I'm standing in for Beatrice Poroli, who is
15 out. And then her supervisor, Mary Madison-Johnson, is
16 dealing with a member of her family that's not feeling too
17 well and needs to stay home. So I get to present this
18 item. It's a rare opportunity. But I have Mary's script,
19 so I don't have to wing it.

20 Good morning, Madam Chair and members.

21 Sacramento Recycling and Transfer Station is an
22 existing facility located at Fruitridge Road in
23 Sacramento. It's owned and operated by BLT Enterprises of
24 Sacramento.

25 The LEA has submitted a proposed Solid Waste

1 Facility Permit revision which would allow the following:

2 Increase in permitted traffic limit to 880
3 vehicles per day; increase the permitted tonnage to 2,500
4 tons per day; and slightly reduce the permitted acreage.

5 At the time this item was initially written staff
6 had not yet completed the inspection of the facility to
7 determine compliance with state minimum standards. Staff
8 have since conducted that inspection and have revised the
9 item, which is in your packet.

10 Board staff find that all the requirements have
11 been met and Board staff recommend that the Board adopt
12 Resolution 2006-163 revised, concurring in the issuance of
13 the permit.

14 The representative from the LEA and I believe the
15 operator are present and can answer any questions.

16 And this concludes staff's presentation.

17 CHAIRPERSON MULÉ: Thank you, Mark.

18 Do we have any questions for either the LEA or
19 the operator today from anyone on this permit?

20 No?

21 Well, seeing none, I just want to mention that I
22 have been out to this facility. And you're doing a good
23 job. Keep up the good work.

24 And so with that, do I have a motion for
25 approval?

1 COMMITTEE MEMBER PEACE: I'm sorry. I did have
2 some questions on this.

3 One, this was kind of submitted by the LEA pretty
4 late. It only gave us about what, 30 days' review on this
5 one? They were supposed to submit it by July 14th. It
6 wasn't submitted till August 7th.

7 Do we feel that we have had adequate time to look
8 at this to protect the public health and safety and the
9 environment?

10 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

11 Yes. Staff had worked with the LEA on this in a
12 draft form. The reason why the timing was such was the
13 base CEQA document for this facility was going through
14 some review locally and that the LEA was waiting for that
15 to go through its final course. But staff had been
16 working with the LEA on the draft, and that was really the
17 only item. And then the follow-up inspection of the site.
18 So we had more than adequate time to work on this and
19 assure that the permit does fully protect public health,
20 safety and the environment.

21 COMMITTEE MEMBER PEACE: And then also, I guess
22 it was called up to be heard by the city council for
23 further review. What was that all about?

24 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

25 If I may defer to the LEA to give you the details

1 about what the city council's concerns were relative to
2 the proposal.

3 CHAIRPERSON MULÉ: Good morning. Could you
4 please state your name for the record.

5 MS. TODD: My name is Lisa Todd.

6 CHAIRPERSON MULÉ: Good morning, Lisa.

7 MS. TODD: I am Supervisor of the Solid Waste
8 Program for Sacramento County. And since I wasn't at the
9 city council meeting, I may go ahead and just defer to the
10 operator, who can explain that to you.

11 CHAIRPERSON MULÉ: Okay. Thank you.

12 Good morning, Mr. Representative of the Operator.
13 Please state your name for the record.

14 MR. EDGAR: My name's Evan Edgar of Edgar
15 Associates for BLT Enterprises. And with me today is Sean
16 Gutterson from BLT Enterprises as well.

17 I was at the meeting. And it was called up by
18 the city council member to -- basically to clarify the
19 community issues. We had two public meetings. We went
20 through it. And during the testimony and during the
21 information submitted by staff at the city and looking at
22 the CEQA document, it was the city council himself who
23 made the motion to adopt this on an 8-0 vote.

24 So we did take an extra time from -- to go on the
25 planning commission. He called it up just to look at all

1 the record to make sure it was complete and correct. And
2 after all the information was submitted, that council
3 member made the motion to accept this -- adopt the CP and
4 accept it on a special use permit.

5 CHAIRPERSON MULÉ: Any other questions, Board
6 Member Peace?

7 COMMITTEE MEMBER PEACE: And I guess one of their
8 questions was that the proposed increase in traffic is not
9 proportionate to the increase in tonnage, because they're
10 increasing their tonnage 500 tons per day, but they're
11 increasing traffic 1500 passenger-car equivalents a day.

12 MR. EDGAR: Evan edgar again.

13 On behalf of the traffic aspect, we had to
14 increase the amount of traffic to take care of the
15 self-haul. Because of the closure of Florin-Perkins was
16 imminent and we started this process a while ago to make
17 sure to accommodate the self-haul. So a lot of the
18 increase in traffic, 400 trips per day, was self-haul, as
19 in the past was only 90 trips per day. So with the
20 closure of Florin-Perkins, we are accommodating that
21 additional traffic count.

22 COMMITTEE MEMBER PEACE: And, also, what's this
23 other comment made by Ms. Annette Deglow, where she says,
24 "Future tonnage increase requests to be approved
25 automatically"? What is she talking about there?

1 MR. EDGAR: Annette Deglow, she represented a
2 community group in that north of the area about a mile.
3 But she keeps on the cumulative impacts from all the solid
4 waste facilities in that region. She feels that the City
5 of Sacramento needs to go through some type of general
6 plan or solid waste master plan. They do have an overlay
7 that they can't expand Florin-Perkins landfill any
8 further. So on an incremental basis they've done some
9 regional planning. But she feels there should be
10 additional regional plan beyond a project location aspect.
11 She wants a regional general plan type of solid waste
12 planning tool.

13 MS. TODD: Let me -- I can add one comment to
14 that.

15 In the special use permit that was approved by
16 the city council, a condition was added that the facility
17 could not expand their tonnage for at least five years or
18 until an additional facility transfer station was built to
19 construction and in operation in the north side of the
20 county or the city, whichever come first. So they have a
21 limitation on being able to submit any applications for
22 increases in tonnage until that time.

23 COMMITTEE MEMBER PEACE: And when she says future
24 tonnage increase requests be approved automatically,
25 there's no such thing as that, right?

1 MS. TODD: No.

2 COMMITTEE MEMBER PEACE: Okay. Thank you.

3 CHAIRPERSON MULÉ: Any other questions, comments?

4 With that, do I have a motion for approval?

5 COMMITTEE MEMBER PEACE: I would like to move

6 Resolution 2006-163 revised.

7 COMMITTEE MEMBER WIGGINS: Second.

8 CHAIRPERSON MULÉ: It's moved by Member Peace,

9 seconded by Member Wiggins.

10 And we can substitute the previous roll on

11 Item -- I guess it was Item F.

12 And I will place this one on consent as well.

13 Thank you, all.

14 Our next item is Committee Item I.

15 DEPUTY DIRECTOR LEVENSON: Thank you, Madam

16 Chair.

17 We'll switch off of permits for awhile. And I've

18 got to keep in my mind that we still have Victorville

19 possibly later.

20 Okay. Thank you.

21 This item is:

22 Consideration of the Grant Awards for the Farm

23 and Ranch Solid Waste Cleanup and Abatement Grant Program

24 for the Account from FY -- Fiscal Year 2006-2007.

25 Carla Repucci, who runs this program essentially,

1 is going to go ahead and make the presentation on this.

2 CHAIRPERSON MULÉ: Good morning, Carla.

3 MS. REPUCCI: Good morning, Chair Mulé and

4 Committee members. My name is Carla Repucci, and I will

5 present Item I, for the consideration of three

6 applications for Farm and Ranch Solid Waste Cleanup and

7 Abatement Grants. The amount requested in these

8 applications being brought before you today is \$191,175.33

9 and represent the first award of this fiscal year.

10 The Farm and Ranch Grant Program began in 1999

11 and provides up to \$1 million each year to tribes,

12 resource conservation districts, and local governments to

13 clean up illegal disposal sites on farm and ranch

14 property. Applicants may request up to \$50,000 per site

15 and 200,000 per fiscal year.

16 There is \$968,987 in the fund for this fiscal

17 year.

18 Three applications were received this quarter,

19 requesting the cleanup of 12 sites. The applications were

20 reviewed for eligibility, scored, and 9 of the 12 sites

21 are being recommended for approval today. The sites being

22 requested for cleanup are in the counties of Nevada,

23 Imperial and San Diego.

24 Of the nine sites being recommended for cleanup,

25 I want to provide a little background about one particular

1 site within the Nevada County application. The site was
2 previously cleaned up in 2002 using program funding. The
3 illegal disposal site is on a very large parcel that is in
4 a remote location, making it very vulnerable to illegal
5 dumping.

6 However, even while the dumping has resumed,
7 there have been some changes within the county that we
8 hope will, you know, reduce the dumping in the future.
9 Some of those are that the transfer station is now open
10 for longer hours; and in July of this year, a new HHW
11 facility was opened; and in August a C&D facility was
12 opened. So those measures along with further patrols,
13 increased patrols by the Sheriff's office and the LEA, we
14 hope will reduce the dumping after the site is cleaned up.

15 The applicant also plans to post "No Dumping"
16 signs and construct earthen berms to help block access to
17 the property after cleanup.

18 So hopefully, again, like with all these
19 measures, the dumping will decrease or completely stop.

20 Grant Eisen is also here from Nevada County to
21 answer questions. He is the LEA within that county.

22 So removal of waste on all of these sites will
23 restore the properties back to their natural state and
24 remove the threat to public health and safety and the
25 environment. Each of the three applicants have included

1 efforts to prevent waste from being redumped, including
2 fencing, earthen berms, gates, the posting of signs, and
3 increase surveillance.

4 Approval of these applications as recommended
5 would leave \$777,811.67 in the fund.

6 In conclusion, the applications meet program
7 eligibility requirements. Therefore, staff recommends the
8 Board adopt Resolution 2006-164 authorizing the award of
9 up to \$191,175.33 for the grant applications from the
10 counties of Nevada and Imperial and the upper San Luis Rey
11 Resource Conservation District, and directing staff to
12 develop and execute grant agreements.

13 I would be happy to answer any questions.

14 CHAIRPERSON MULÉ: Thank you, Carla.

15 Do we have any questions for Carla?

16 Board member Danzinger.

17 BOARD MEMBER DANZINGER: I just had one on the --
18 the first one, the one that was cleaned up in 2002 with
19 one of our grants. I'm just curious what measures were
20 put in place between then and now to at least try to
21 prevent further dumping. I mean you can't stop it in some
22 cases, so take this question in the spirit it's intended.
23 I'm just curious, that at least a good faith effort was
24 taken, there were some measures in place to try to prevent
25 dumping on that site.

1 MS. REPUCCI: I'm going to defer to Grant Eisen,
2 the LEA from Nevada County to help answer this question.

3 CHAIRPERSON MULÉ: Good morning. Please state
4 your name for the record.

5 MR. EISEN: Good morning. I'm Grant Eisen, LEA
6 for Nevada County. And thank you for the opportunity to
7 come before you.

8 Also, before I answer your question, I want to
9 thank you on behalf of the property owners in the
10 applications. They -- when they finally comprehended what
11 this program was, they were very grateful, because they're
12 all out-of-county property owners and just weren't aware
13 that this option was available.

14 To answer your question, sir. What we've done --
15 this area is Deadman's Flat. It's a badlands in Nevada
16 County. It's BLM land, private property, wide open
17 spaces. The property in question's 123 acres. The best
18 we could do was LEA patrols, Sheriff patrols, code
19 enforcement patrols. And actually staff from the
20 McCourtney Road Transfer Station patrolled the adjoining
21 road, the South Ponderosa Way, which goes through the
22 Deadman's Flat. And they would look at the area that was
23 cleaned up. Because it wasn't just this property that was
24 cleaned up back in 2002. It was a corridor probably for
25 approximately four to five miles cut in half by the

1 Highway 20.

2 The north section today remains clean, thank
3 goodness. The south section of the corridor, it appears
4 most of the dumping that we interdicted on South Ponderosa
5 Way, the dumpers that would have dumped there have dumped
6 in to the Alberra's property, which is the site in
7 question.

8 So what we've done, I've gone on site. I found
9 evidence. I've followed due process. It has not been
10 successful, unfortunately. The main case I have I brought
11 with me. I have to get dramatic or -- I have the notice
12 to abate nuisance to a character who I found -- found his
13 address. He dumped a trailer full of trash. Found he had
14 a special needs child. And I said, "Okay, I'm going to
15 get this guy." I went to his house. He had already been
16 arrested for a chop shop and narcotics. Chop shop is you
17 steal cars, bring them in, dismantle them, rebuild them.

18 So I actually found when his hearing date was,
19 went to the courthouse. And they didn't realize he was a
20 flight risk. He was gone. So I go after litterbugs. And
21 the Deputy D.A. said, "Take a number. He's in a world of
22 hurt when we catch him." So that's an example.

23 I found other evidence, given it to the Sheriff's
24 office, not sure where it went. We've actually caught
25 people on South Ponderosa Way. Sheriff's caught people.

1 My last one I've -- there's some fresh dumping.
2 For example, I found some -- found an address. It was
3 old. I sent a notice to it. I got a call from a marine
4 in Hawaii asking, "How did you find this? I moved out of
5 there months ago. I was in San Diego. Now I'm in Hawaii
6 headed over to Iraq.

7 So we do what we can.

8 BOARD MEMBER DANZINGER: But they said that there
9 is a larger area that we cleaned up.

10 MR. EISEN: Yes.

11 BOARD MEMBER DANZINGER: And much of that area
12 has remained clean. And then there's one part of the area
13 we cleaned up that is -- that's where the stuff is now
14 that this would clean up.

15 MR. EISEN: Yeah.

16 BOARD MEMBER DANZINGER: Okay. I mean so it's a
17 problem spot within that, and you're going to take
18 additional measures? Because I didn't sere you say
19 signage or fencing or anything like that. You're going to
20 fake additional measures now that you know that this is a
21 trouble spot?

22 MR. EISEN: Sorry. I was rambling a little bit
23 there. But what I will say is we're going to not only
24 berm it, but I'm going to get -- first of all, public
25 works is going to do the cleanup. I'm going to ask their

1 engineers to help me design the berms. Because the area
2 is attractive. It's hidden, remote. It's a shooting
3 range. People go in there for paint-balling. And it's
4 wonderful for four-wheeling. So I don't want to create a
5 berm that says, "Come play." I want to create a berm that
6 stops the area.

7 I did notice in the 2002 cleanup -- I went
8 through there last Thursday and observed the dumping. The
9 parcel due south -- bear with me with where all this is
10 laid out. The parcel to the south of the property in
11 question, that owner put up a fence, chain-link fence,
12 posted "No Trespassing." So the access road I was on came
13 to a stop at this fence. So you do have a fence -- secure
14 fence to the south. You have Highway 20 to the north.
15 But you have at least two routes of access in from South
16 Ponderosa Way. And we're just going to have to get
17 sophisticated berms and "No Dumping" signs. I'm hesitant
18 on the signs, but we'll do it. Signs are just targets out
19 there, you know.

20 BOARD MEMBER DANZINGER: Yeah, I know. I'm not
21 saying it will stop it.

22 MR. EISEN: That's what I offer on that.

23 BOARD MEMBER DANZINGER: No, thanks. That
24 answers my question. Thank you very much.

25 COMMITTEE MEMBER PEACE: I just wonder, have you

1 ever tried surveillance cameras?

2 MR. EISEN: We've discussed it. We've had the
3 Air Board specialist out to another site and -- but we
4 haven't set them up. We've been hesitant for just -- it
5 is a no-man's land. There's -- I'll be brief. But where
6 this site is, if you travel north on South Ponderosa Way
7 from McCourtney landfill, which is about a mile and a
8 half, two miles away, as you approach Highway 20 overpass
9 you're at a crossroads. If you go north, that's the
10 northern corridor that's still clean. If you go west,
11 it's a worse no-man's land that -- I've been there in the
12 past. There's homeless villages.

13 I did have a waste tire site in there that it was
14 cleaned up about 11 years ago, in a mine shaft, about a
15 thousand tires.

16 If you go right at the crossroads, it's the
17 Albera property. And it doesn't really -- we're hesitant
18 to put the cameras up because as good as they are, they
19 get vandalized. I know Yuba County LEA had some limited
20 success in an area that had better population nearby. So
21 that is an option. It still is an option.

22 COMMITTEE MEMBER PEACE: And I was just
23 wondering, since you do have the tires, that maybe if this
24 continues to be a problem, you can work with our Tire
25 Enforcement Department on some type of survey -- but

1 hopefully this will work.

2 Also, what I was going to ask our staff is that
3 in Nevada County they're cleaning up 3,000 cubic yards and
4 300 tires for \$44,000 and Imperial County is cleaning up
5 950 cubic yards for like \$112,000. What's the big
6 difference there? Is it the ninety appliances or a harder
7 area to get to? But he just said it was real remote area
8 in Nevada County. I was just wondering how come Imperial
9 County was costing so much more to clean up.

10 MS. REPUCCI: Prices can vary depending on how
11 far you are from the transfer station of the landfill, the
12 types of materials, the terrain. There's so many
13 variables thrown in there. How many contractors are
14 available for you to obtain quotes from. There are areas
15 that you have one choice. There just aren't any other
16 options what people to call for bids.

17 COMMITTEE MEMBER PEACE: Okay. Thank you.

18 CHAIRPERSON MULÉ: Okay. Any other questions?

19 I just want to concur with Board Member
20 Danzinger's comments. I just am a little reluctant to
21 approve of funding again for a site that was previously
22 cleaned up. However, after hearing the measures that the
23 county and the LEA are going to be taking to mitigate this
24 from happening again, I don't have a problem with it.

25 So do I have a motion for approval?

1 COMMITTEE MEMBER PEACE: I'd like to move

2 Resolution No. 2006-164.

3 COMMITTEE MEMBER WIGGINS: Second.

4 CHAIRPERSON MULÉ: We have a motion by Board

5 Member Peace, seconded by Board Member Wiggins.

6 Please call the roll.

7 SECRETARY DUCLO: Members Peace?

8 COMMITTEE MEMBER PEACE: Aye.

9 SECRETARY DUCLO: Wiggins?

10 COMMITTEE MEMBER WIGGINS: Aye.

11 SECRETARY DUCLO: Chair Mulé?

12 CHAIRPERSON MULÉ: Aye.

13 And we will put this one on fiscal consent for

14 the full Board.

15 DEPUTY DIRECTOR LEVENSON: Madam Chair, just to

16 follow up on this particular item. First of all, I want

17 to thank all of you for your understanding of the nature

18 of these illegal dumping sites and to grant for --

19 illustrated some of the problems we have in dealing with

20 them, even some of the repeat ones. Over the last several

21 years we've strived as program staff to get more and more

22 preventive measures into these grant applications, even

23 though the thrust of the program is cleanup.

24 And in that light I want to just note to you that

25 next week, September 14th, we have our final meeting of

1 our Illegal Dumping Enforcement Task Force, a
2 multi-agency, multi-jurisdiction task force that's looking
3 at these issues, here in the building. I can't remember
4 exactly what time. I think it's 10 o'clock. And that
5 committee will be putting together a report that we will
6 then vet and bring to the Board with our own
7 recommendations in terms of what future activities might
8 be worth pursuing in this whole illegal dumping problem.

9 CHAIRPERSON MULÉ: Thank you, Howard. I
10 appreciate that.

11 Oh, go ahead, Grant.

12 MR. EISEN: I just want to thank you for your
13 consideration.

14 CHAIRPERSON MULÉ: Sure.

15 MR. EISEN: But, also, one thing that I will do
16 now that I didn't so much then is I'm going to involve the
17 property owners: "What are you going to do now with your
18 property now that it's clean?" Because they were in a
19 state of denial, "The county's not doing enough, the
20 state's not doing enough to protect my property." Now
21 I'll make them aware, "If it's clean, it's up to you."

22 CHAIRPERSON MULÉ: Right.

23 MR. EISEN: Thank you.

24 CHAIRPERSON MULÉ: Thank you very much.

25 Okay. I know we have a few more items here. And

1 I'm looking at our court reporter.

2 Five-minute break?

3 And then we'll go to our next few items.

4 So let's just take a five-minute break. We will
5 be back here at 11:50 a.m.

6 Thank you.

7 (Thereupon a recess was taken.)

8 CHAIRPERSON MULÉ: I'd like to call this meeting
9 back to order.

10 First of all, any ex partes?

11 Board Member Peace?

12 COMMITTEE MEMBER PEACE: No, I'm up to date.

13 CHAIRPERSON MULÉ: As am I.

14 And Board Member Wiggins is not here yet.

15 Would you just call the roll for now please.

16 SECRETARY DUCLO: Members Peace?

17 COMMITTEE MEMBER PEACE: Here.

18 SECRETARY DUCLO: Wiggins?

19 Chair Mulé.

20 CHAIRPERSON MULÉ: Here.

21 Okay. I'm sure Board Member Wiggins will be here
22 shortly.

23 Let's proceed with Committee Item J, Howard.

24 It's Board Agenda Item 9.

25 DEPUTY DIRECTOR LEVENSON: Okay. This item is

1 entitled: Discussion and Request for Rulemaking Direction
2 to Provide an Additional 15-day Comment Period for
3 Revisions to the Proposed Permit Implementation
4 Regulations.

5 I'd like to introduce this item myself and then
6 turn it over to Mark and Bobbie.

7 This is a very important and complicated
8 rulemaking, and it covers many major concepts, including
9 the issue of significant change in the design and
10 operation of a solid waste facility that is not authorized
11 by the existing permit. It includes a decision tree
12 methodology for LEAs to follow in determining how to
13 accommodate proposed changes. And of course related to
14 that is the issue of the minor and significant change
15 lists that we'll discuss in more detail. It also includes
16 public noticing and hearing requirements for new and
17 revised permits, noticing requirements for modified
18 permits and RFI amendments. And it deals with the
19 relationship of the Solid Waste Facilities Permit to the
20 Local Land-use Permits. And there are other issues as
21 well, but those are some of the major ones.

22 Committee directed earlier this year, directed
23 staff to notice the proposed regulations for a 60-day
24 comment period, a little bit longer than the normal
25 comment period. And we did that. And the period ended in

1 early June and we held a public hearing at that point.

2 We're now seeking your direction of specific
3 changes to make to that language that was noticed for 60
4 days, and then to notice these new changes for the
5 standard 15-day comment period.

6 Depending on the comments we receive -- assuming
7 you direct us to go out with new language today, depending
8 on the comments we then receive, we'll return to the
9 Committee either recommending adoption or recommending
10 another 15-day comment period if we think that's
11 necessary.

12 I would like to make a few comments about the
13 process we've gone through and about how the item itself
14 is structured, because it's a very complicated item and I
15 think hearing it a couple times in terms of how it's
16 structured and where to look for material will help you in
17 making -- in your deliberations about this.

18 First of all, in my mind this has been an
19 outstanding public process in keeping with the Board's
20 openness and desire for maximum transparency and
21 stakeholder access in the rule-making process.

22 I know that there are stakeholders out there who
23 might disagree with staff recommendations. But I don't
24 think any one of them will complain at all about the
25 process that we've undertaken. Industry and LEA

1 stakeholders have participated very actively in the
2 informal and formal rule-making process. We've had
3 frequent dialogue with our project team via workshops,
4 meetings, written correspondence, and the availability of
5 the website to post and comment on the language. And
6 there's many more details on this in the item.

7 Just in response to comments we received on the
8 60-day comment period, staff prepared extensive -- an
9 extensive response document that was posted on the web
10 several weeks ago. And it also forms the basis of
11 Attachment 1, which we'll talk about in a moment. And the
12 staff also talked with many, if not all, of the major
13 commentators on their comments on the 60-day comment
14 language.

15 I think the credit for this goes entirely to Mark
16 de Bie, Becky Williams, and burning woman Bobbie Garcia,
17 who just returned from burning man. I don't know, got to
18 be PC here.

19 Secondly, just a couple of words about how the
20 item and attachments are structured.

21 The body of the item lays out the major issues
22 and summarizes staff's rationale and then our basic
23 recommendation on each of the issues.

24 Everything is further expanded upon in Attachment
25 1. In Attachment, 1 which is what's on the website, each

1 issue is listed; the major comments are summarized; then
2 there's staff's recommended approach and rationale; and
3 then in some cases there's specific regulatory language,
4 which then is repeated in Attachment 2.

5 All of the proposed regulatory changes that staff
6 is recommending are then shown in Attachment 2. And
7 strike out or double underline or whatever's necessary.
8 And it's those changes that we're seeking your direction
9 on to notice for an additional 15-day comment period.

10 There are two specific issues where, because of
11 prior Committee direction and because of the comments that
12 we received, we've provided you with three options for
13 discussion. This is the minor change list and then the
14 significant change definition and significant change list.
15 And this is where it gets kind of hard to find -- can get
16 hard to find some of this material. So we've tried to lay
17 it out very rationally.

18 For each of these two issues, we've provided an
19 explanation of the three options. It's briefly in the
20 item text and then in more detail in Attachment 1. And
21 we'll refer to page numbers as we go through the
22 presentation so you can track where we are.

23 We've also -- again, for these two issues that
24 have three options each, we've included specific draft
25 regulatory language for each of the three options in

1 Attachment 1 so that it's clear how the technical language
2 would vary depending on which option you choose.

3 Then in Attachment 2, we've only included staff's
4 actual recommended language. If you choose one of the
5 other options, then you would direct us to substitute that
6 particular language into that regulatory text.

7 And with that -- hopefully it gives you a little
8 clue as to how this is laid out -- I'll turn to Mark.

9 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

10 Thank you, Howard.

11 Mark de Bie with Permitting and Inspection. I'm
12 going to try to take the bulk of the presentation and rely
13 on Bobbie for technical support. And that will allow her
14 voice to recover from the grit that she experienced in the
15 festival.

16 As Howard indicated, you know, there were some
17 main issues that were brought up during the comment period
18 and addressed through the revisions to the permit. There
19 were also a number of minor kinds of changes to the
20 regulations, which in staff's opinion is just to provide a
21 response to the comments that we received, but basically
22 do not change the overall goal or content of the regs; it
23 helps clarify some of the issues. So we're not prepared
24 today to go through all of those technical minor changes
25 that we've made to the regs, but we'll certainly spend

1 some time going through the major issues.

2 If you do want to ask us about some of those
3 ones, we can do that by going through Attachment 2 step by
4 step, but that may take some time.

5 So as Howard also indicated, we did post a
6 version of the regs out for 60-day comment and received
7 over 30 comments, both written and oral, on that version
8 of the regs. And staff have gone through those comments
9 and made changes in response to those comments.

10 What I'd like to do is sort of hit on some of the
11 more straightforward issues and the changes associated
12 with that and then lead into some of the more complicated
13 issues such as the change lists -- the minor change lists
14 and significant change lists and the CUP Solid Waste
15 Facility Permit application issue, which are a little bit
16 more complicated than some of the other ones.

17 So with that, I think the first set of changes I
18 want to talk about deal with some of the changes relative
19 to noticing of applications that have been received by the
20 LEA as well as noticing associated with informational
21 meetings. And the noticing section begins in Attachment 1
22 on page 21.

23 Basically we received a number of comments
24 relative to the content of the notices that were provided
25 in the regs as well as the process for noticing the fact

1 that applications for RFI amendments, modified permit or
2 revised or new permits had been received by the LEA. And
3 based on those comments we've made a couple different
4 changes.

5 Probably the one that's the most significant or
6 major change is -- originally the regulations had set up a
7 notice process where applications for RFI amendments as
8 well as modified permits were going through the same kind
9 of notice process as well as level of notice. Based on
10 comments and the fact that the modified permit process and
11 the RFI amendment process are very different types of
12 processes with different time frames, staff is now
13 proposing in this revised version of the regs to have the
14 modified permit application noticed in a way that's very
15 similar to that of the revised and new permit process. It
16 does not go to the point of requiring a public meeting or
17 an informational meeting relative to modified permit.
18 That's still not being pursued with these regs. But the
19 type of notice and how the notice is provided would be
20 very similar to the revised or new permit new process.

21 That would allow the RFI amendment application
22 process to be a stand-alone process, would avoid creating
23 three processes and add potentially more confusion on
24 what's the requirement.

25 Relative to the RFI application process, again

1 based on comments, staff saw it necessary to amend how the
2 process would unfold. Previously we had the notice for an
3 RFI application being noticed to the public while that
4 application was in process. The RFI amendment process is
5 a very short process, a 30-day process. It's done by the
6 LEA. It's basically a review of the application
7 determining if the application's complete and correct and
8 if three findings can be made. So it's a very quick and
9 effective process.

10 The way we had the notice built in the original
11 regs was problematic in that some of the findings that we
12 were asking to be noticed couldn't necessarily be made
13 until action was made on the application. So it was
14 brought to our attention that that was very problematic,
15 that you would have to sort of assume certain things to
16 create a proper notice.

17 So to address those comments staff is now
18 requesting in these regs that the notice that an RFI
19 amendment application has been received would be done
20 after the LEA makes the required findings and basically
21 approves the RFI amendment. And then that notice would be
22 required to be posted at least five days after that point
23 in time and be available for review for at least ten days.

24 Prior we had the notice occurring, like I said,
25 during the process. And for various reasons that was

1 problematic and not going to work really, in staff's
2 opinion.

3 So I think those are the major shifts that we've
4 done relative to noticing.

5 And then relative to informational meetings we
6 received several comments about the meetings and the
7 particulars about how they should be conducted, where they
8 should be conducted, some questions about the substitute
9 meeting requirement that we had in the regs.

10 The meeting requirements start in on page 29 of
11 the Attachment 1 revised.

12 Let me first indicate that relative to the
13 substitute meeting -- and you might recall this is an
14 allowance in regs, that if there had been a public meeting
15 conducted within the last year that the LEA participated
16 in, the LEA could identify that meeting, their involvement
17 in that meeting; and if they were able to demonstrate that
18 it met the criteria in these regs, point to that meeting
19 as being substitute for the stand-alone LEA meeting.

20 We're retaining that. The substitute meeting
21 would still be allowed. But we did receive at least one
22 comment that indicated that sometimes the operator would
23 like the LEA to have their own stand-alone separate
24 meeting. And so we've inserted language that indicates
25 that if operator objects to the fact of the LEA wanting to

1 use a substitute meeting, that the LEA would need to
2 respond by not using the substitute meeting but having
3 their own stand-alone meeting.

4 There was a couple comments about some of the
5 parameters around the informational meeting. One of the
6 commenters indicated that in an urban setting the
7 five-mile radius that we had indicated for conducting the
8 meeting didn't seem to be appropriate. And they had
9 suggested that the LEA should be obligated to find a venue
10 that was within one mile of the facility. So staff has
11 amended the regs to change "five miles" to "one mile".
12 We're still indicating that, you know, there's some
13 flexibility in that even within one mile in a rule
14 environment, that it might not be possible to find a
15 venue. And so the LEA if they can't find a site within
16 one mile has the flexibility to look for sites beyond one
17 mile.

18 There are still criteria in the regs that
19 indicate to the LEA that they need to be finding venues
20 and scheduling these meetings in a way that would allow
21 the full participation of the concerned community.

22 Also, we received some comments about the
23 responsibility of the LEA at these informational meetings
24 relative to comments that they receive. The regs as
25 initially written didn't include any direction to the LEA

1 relative to their responsibility and comments. The regs
2 now have been revised to indicate that at a minimum the
3 LEA needs to be able to collect those comments, summarize
4 them and indicate any actions that they've taken relative
5 to those comments and provide them to the Board along with
6 the other items in the permit application package when
7 it's submitted to the Board for its concurrence on that
8 permit. So we are providing direction to the LEA on what
9 their nominal responsibilities are relative to those
10 comments.

11 That would then allow those comments to be placed
12 in the record and available to anyone that would like to
13 request them and review them. Whereas, before it could
14 have been a potential that the LEA would, you know, maybe
15 make some personal notes or not any notes at all and not
16 have any response to those comments. So now we've
17 indicated that there is some responsibility.

18 So that was just a summary of some of the more
19 straightforward changes.

20 Bobbie wants me to make sure that you know that
21 we did do a shift relative to the notice requirements and
22 the meeting requirements for registration level and
23 standardized permits. Taking the Board's direction
24 relative to what was done with the C&D regs, we had
25 initially written the regs to include public meetings for

1 registration and standardized level of permits and apply
2 that to all types of permits, transfer station, landfills,
3 et cetera.

4 Based on comments and as well as looking at the
5 process that's involved with processing registration
6 permits and the timing involved, it just didn't seem to be
7 practical to require a meeting -- an informational meeting
8 relative to registration and standardized level permits.
9 So these proposed regs would retain the noticing
10 requirements that are new to registration and standardize,
11 but pull out the requirement relative to having a
12 stand-alone LEA informational meeting relative to
13 registration level or standardized permits.

14 And I think the Committee is aware that many of
15 those facilities out there that had been issued
16 registration permits for composting and C&D are now opting
17 to go to full permits. So there's fewer and fewer of
18 these registration permits that are on the books these
19 days.

20 Okay. Well, now I want to phase in to the
21 discussion relative to the lists -- the lists discussion.
22 So the first list that I want to talk about is the minor
23 change list.

24 Howard indicated a little bit about the process.
25 But just a little bit more about how these lists were

1 developed and the form they took in the regulations. When
2 the regulations were brought to the Committee initially
3 for the request for the initial comment period, there was
4 no list included in the regs. But based on the input from
5 the Committee, staff was directed to work with
6 stakeholders to develop two types of lists. One is the
7 minor change lists and then another is the significant
8 change lists, which I'll talk about a little bit later,
9 and then to include that list into the regulations. So
10 staff did follow up on that direction, worked with
11 stakeholders, did develop a list.

12 Actually when the regs were noticed, there were
13 in effect two subsets of the lists for minor change.
14 There was one set of changes that had a majority support
15 of the stakeholders if not 100 percent support. And then
16 there were a set of changes that had less than 100
17 percent. And my recollection was it was eventually 60, 70
18 percent -- Bobbie? -- 60 percent of the stakeholders that
19 we worked with supported the changes in that second list.

20 So the regs went out with a minor change list in
21 two parts. And comments were received. Many of the
22 comments indicated that they would prefer to see a set of
23 regs without a list of minor changes. And let me take one
24 step back, of what we mean by minor changes. What we're
25 looking at are changes that could occur at a facility --

1 could be implemented at a facility with no review or
2 approval by the LEA, that the operator would look to the
3 list, see that the type of change that they would like to
4 implement is on that list, and go ahead and implement that
5 change.

6 The regs did require that the operator eventually
7 notice the LEA of the fact that they had implemented that
8 change after the fact. But the LEA would not have any
9 review or approval over that particular change.

10 So that's how the minor change list fits in.
11 It's basically the changes that are just completely
12 outside the purview of the LEA relative to their authority
13 and the permit.

14 Based on comments, staff is now proposing to pull
15 out the minor change list, but retain what we refer to as
16 the decision tree, which is a methodology that the regs
17 outline on how an LEA could determine what kind of review
18 or approval, if any, is required for any change that's
19 provided to them by the operator.

20 The regs indicate in their current form that, you
21 know, if a change that's being proposed is not anything
22 within the responsibility or authority of the LEA, those
23 changes can be made without going to the LEA. They're not
24 part of the authority or responsibility of the LEA.

25 The regs also indicate in their current form

1 that -- using the decision tree, that if a change is
2 consistent with the permit, consistent with state minimum
3 standards, consistent with the CEQA document, and not in
4 conflict with the existing RFI, those changes can also be
5 implemented without going to the LEA and requesting a
6 review and approval.

7 As Howard indicated though, we have indicated
8 some options, which appear on page 5, relative to the
9 minor change lists. We have Option A, B and C.

10 Option A is the option that I've described where
11 there is no list included in the regulations. And the
12 operator and LEA are dependent on the decision tree to
13 determine which kinds of changes can be made without
14 review and approval, which ones need some level of review
15 and approval, be it RFI amendment, modified permit or a
16 revised permit.

17 Option B is an option that retains the list in
18 the regulations, be it an edited version of the list.
19 When the regs were initially noticed for comment, staff
20 basically wholesale took the list as developed by the
21 stakeholders and placed it into the regulations. We did
22 not attempt to make any edits to it. But in looking at
23 the list and looking at comments received on the list, it
24 was obvious that some of those items in the list were
25 either not appropriate because they were things that were

1 outside the LEA's authority and didn't need to be stated
2 or weren't clear and needed to be clarified. And there
3 were a number of suggestions on how to clean up the list.
4 And so staff has made an effort to provide some edits to
5 those items in the list that does include removing some of
6 the items from the list.

7 But basically in Option B is you now have one
8 list that's a combination of the two lists that did appear
9 previously in the regs with edits.

10 And then Option C takes that same list in its
11 edited form; and instead of imbedding it in the
12 regulations as part of the criteria for evaluating a
13 change, it's included in what's referred to as a note.
14 And in the regulations -- in a number of regulations there
15 are sort of notes included at the end of the regulation to
16 include additional description, language to provide
17 additional clarity relative to that reg. It usually
18 provides context, that sort of thing.

19 So in Option C we have the list included as a
20 note. And the items in the list are described as being
21 potentially typical examples of what might be found to be
22 a minor change at a site.

23 Staff's recommendation today for the 15-day
24 comment period relative to the minor change list and as it
25 appears in Attachment 2 is consistent with Option A.

1 That's what staff would recommend at this time. But as
2 Howard indicated, certainly if the Board would like to
3 pull out Option A and place in Option B or C, staff can do
4 that and notice the regs accordingly.

5 DEPUTY DIRECTOR LEVENSON: And I'll give Mark a
6 chance to take a breath.

7 I just want to point out the exact language for
8 those options. If you look at page 5 is Option A -- page
9 5 and 6. And that's what's in your Attachment 2.

10 Option B, which has the list, is pages 7, 8 and
11 just the very top of page 9.

12 And then Option C is 9, 10, and 11, with the list
13 as a note.

14 CHAIRPERSON MULÉ: Thank you.

15 DEPUTY DIRECTOR LEVENSON: So if you -- whichever
16 option you choose, we have language here for you that we
17 can then substitute directly into what goes out for
18 noticing.

19 We've recommended Option A. I understand the
20 perspective of operators who want to have some clarity in
21 what is not -- or what is a minor change and doesn't have
22 to be dealt with by the LEA. We as staff feel that that
23 is an important consideration, but we have focused more on
24 the flexibility and the site specificity of solid waste
25 facilities and have recommended Option A to give the LEAs

1 more discretion in that choice. But we understand that
2 there are two different perspectives here.

3 CHAIRPERSON MULÉ: Howard, thank you for pointing
4 that out, where all that language is. Appreciate it.

5 DEPUTY DIRECTOR LEVENSON: I don't mind doing
6 that multiple times. It's hard to wade through these.

7 CHAIRPERSON MULÉ: There is a lot to follow here.
8 So thank you.

9 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
10 Thank you.

11 Moving on to the second type of list, is the
12 significant change list. And this list again had the same
13 sort of history as the minor change list in that the
14 Committee asked staff to work with stakeholders to develop
15 a list of changes that would basically be changes that
16 would always be considered to be significant no matter
17 what kind of site is being dealt with, and therefore would
18 always require that the permit be revised in order to
19 approve that requested change.

20 So the regs were noticed, and it did contain a
21 list of several items that were developed by the
22 stakeholder -- stakeholders that had majority approval on
23 relative to those.

24 We did receive many comments relative to the
25 significant change list. Many of the commenters indicated

1 that they would prefer a set of regs without the list.

2 There were some commenters that indicated they could
3 support a list with edits and revisions to it.

4 So based on the comments, Board staff has
5 addressed that issue. And page 15 is where we talk about
6 significant change lists on Attachment 1 revised. And,
7 again, it's in the form of multiple options.

8 Option A is -- the actual language starts on page
9 17; Option B on page 18; and then Option C the actual
10 language appears on page 19.

11 Attachment 2, which is the regs that the staff
12 would like to notice for 15 day, follows Option A, which
13 is to remove the list from the regulations. So the
14 regulations would not include a list of changes that would
15 always be considered significant relative to a solid waste
16 facility. Again, we're depending on the decision tree as
17 a mechanism to determine what kinds of changes would
18 require permit revisions and which ones could be allowed
19 through some other process.

20 Option B does retain the list in its form that
21 was noticed. We haven't edited that particular list.

22 And then Option C follows the same sort of
23 strategy with the minor change list in that it includes
24 the list as a note in the regulations as examples of types
25 of changes that might be considered or could be considered

1 significant.

2 And, again, just for emphasis, staff is
3 recommending Option A. And it's reflected in Attachment
4 2.

5 And then the last issue that I wanted to cover in
6 any level of detail -- and, again, staff can walk through
7 any of these other minor technical clarification questions
8 or issues -- but is the parts of the regulations that were
9 designed with the goal of trying to clarify or better
10 clarify the relationship between the Solid Waste Facility
11 Permit application that is developed by the applicant and
12 any existing conditional-use permit or land-use approval,
13 zoning, that sort of thing.

14 The initial set of regs that were noticed had one
15 strategy included to address that issue that focused on
16 the permit application process as where we would add the
17 clarity. So we had changed language relative to the
18 definition of "correct" so that when an LEA is reviewing
19 an application for completeness as well as correctness,
20 there was guidance included in that definition of
21 "correctness" that indicated that the CUP or
22 inconsistencies or conflicts with the CUP noted in the
23 review of the application would not be grounds for
24 rejecting the application and requesting a new
25 application. That would be the overall effect basically

1 of the changes that we had made.

2 We had included changes in the regs to increase
3 the amount of notice, involvement, communication between
4 the Solid Waste Facility Permit application process and
5 entities that have authority over the land use. And that
6 was in the form of requiring the applicant to provide a
7 copy of the application to the land-use people so that
8 they had a chance to see what was being requested of the
9 LEA relative to the Solid Waste Facility Permit.

10 So those were the major ways that we were trying
11 to add some clarity to this relationship with the Solid
12 Waste Facility Permit, by basically indicating that
13 inconsistencies the LEA identified with the land-use
14 permit would not necessarily result in rejecting at the
15 application and then increase in communication, with the
16 hope or the goal that the land-use authority would be able
17 to see what was being asked of the LEA and see if there
18 were any inconsistencies, and then they could pick up the
19 gauntlet and move forward in resolving those
20 inconsistencies by addressing them through the land-use
21 process.

22 Based on comments, staff has sort of -- not sort
23 of -- we have changed the approach to this issue, still
24 looking towards meeting that same goal of adding clarity
25 relative to these two processes. The one element we have

1 retained is that communication link. So that is still in
2 place. We have not changed that.

3 But we have backed out the language relative to
4 correctness, and now -- and as well as backing out the
5 requirement to include the land-use approval in the
6 application. So we pulled out the requirement that's
7 currently in regs, it's always been there -- it's not a
8 change that we started with this process -- that the Solid
9 Waste Facility Permit application would include a copy of
10 the CUP. We've pulled that requirement out of the
11 regulations.

12 But we have added into the regulations language
13 in the form of a note that indicates that when the LEA
14 sits down to write the application or -- sorry -- writes
15 the permit, that that is the appropriate time for the LEA
16 to consider not just the land-use approval, but any
17 permits that may be issued to this facility. So that
18 would be the waste discharge requirements, any air
19 requirements, those sorts of things.

20 At that time the LEA can pull those permits, look
21 at them, and determine what kinds of conditions, limits,
22 that sort of thing, the LEA would need to write into their
23 permit. And if their strategy is to write a permit that's
24 consistent with those permits, they can do that. The LEA
25 has the authority to write any and all conditions that

1 they feel are appropriate to protect public health, safety
2 and the environment, as well as ensure compliance with
3 state minimum standards.

4 So by shifting the regs in this manner, we're
5 moving away from decisions being made at the application
6 processing point and moving them to the permit writing
7 point when the LEA is actually making decisions about what
8 to write in the permit.

9 The removal of the CUP from the list of
10 requirements in the application staff feels is consistent
11 with some of the major revisions that had been made to the
12 regs in the past. Staff looked back at how the
13 application requirements evolved over time and noted that
14 in the early nineties at one time the Solid Waste Facility
15 Permit was viewed as the final last umbrella permit. And
16 it took the form as in that the application to the LEA
17 needed to require every single permit that had been issued
18 to that site. So Fish and Game permits, Air permits,
19 Water permits, all of those had to be in place before the
20 LEA could even accept an application.

21 There's been legislation that has shifted that
22 dynamic and has now set up a system where the LEA's permit
23 is one of many that can processed independently as long as
24 those particular requirements are met for that particular
25 application.

1 So looking at that history and how many of those
2 other permits had been dropped out of that requirement,
3 and trying to figure out why the CUP was left in, we
4 consulted with some LEAs. And the thought was it's there
5 for informational purposes; that the LEA would like to
6 have access to the CUP so that when they do write the
7 permit, they can know what the local land-use approval
8 was.

9 Staff feel that the LEA, as anyone, can go and
10 obtain that document without requiring the applicant to
11 provide it to them in the form of an application. It's
12 readily available and they need not depend on the
13 application process to get that document.

14 So we felt that including the CUP was sort of --
15 a bit of a fossil relative to how the process had changed,
16 and felt confident that we could pull it out at this time.

17 So a lot of description there. Just to finish up
18 on this one. Basically the way the regs are written is:
19 Notice to the land-use authority still that there's an
20 application in process, removing the CUP from the list of
21 requirements in the application, but providing guidance to
22 the LEA in the regs in the form of a note that they're
23 obligated to look at not just the CUP or land-use
24 entitlements but all permits when writing the permit.

25 So with that, staff at this time is recommending

1 that the Board go ahead and notice -- or direct staff to
2 notice the version of the regs that's found in Attachment
3 2 for a 15-day comment period. Staff would conduct that
4 comment period, take written comments, and then as
5 necessary bring it back to the Board for either a request
6 for an additional comment period to address any changes
7 that are made to the regs or come back to the Board,
8 initially Committee with a request to go ahead and approve
9 the regulations.

10 I understand there's a number of speakers that
11 would like to talk on this.

12 CHAIRPERSON MULÉ: Yes, I think we have ten and
13 counting.

14 But first of all, I just want to thank you, Mark
15 and Bobbie, for a fantastic job on this process. I was at
16 a number of those meetings, and could not have kept track
17 of all this. So you did a great job of keeping on top of
18 it and incorporating the comments and concerns and
19 recommendations of all the stakeholders involved. So I
20 just want to stay thank you very much and thank you for
21 getting back here from your vacation to be with us.

22 We do have about ten speakers. So I'd like to
23 call them forward. I'm going to ask if you could limit
24 your comments to three, maybe five minutes max, because we
25 do have so many speakers.

1 Our first speaker is Matt Fore.

2 MR. FORE: Good morning, Madam Chair and members
3 of the Board.

4 CHAIRPERSON MULÉ: Good afternoon.

5 MR. FORE: Good afternoon.

6 My name is Matt Fore. I'm here this morning to
7 offer comments on behalf of two groups: The Enforcement
8 Advisory Council; as well as the South Central LEA
9 Roundtable, comprised of approximately nine LEAs in the
10 rural Central Valley.

11 I'd like to first commend your Board and staff on
12 this inclusive regulation development process. I
13 appreciate the efforts that have been made to garner such
14 broad input from the LEAs as well as other stakeholders.

15 Second, as member of the EAC, I would like to
16 offer the following comments on the draft response to
17 comments:

18 On March 7th, 2006, the EAC adopted Resolution
19 2006-02, which outlined the following positions on the
20 proposed regulations: First, to maintain local
21 discretionary action as central to the permit process;
22 second, to avoid the use of predetermined lists to outline
23 the criteria that must be met to implement a change
24 without EA approval; and, third, to employ the
25 decision-making tree to identify whether a change

1 represents an RFI amendment or a modified or revised
2 permit action.

3 Based upon this resolution, the EAC supports
4 staff's suggestion to delete both the minor and the
5 significant change lists. We feel that the decision tree
6 is the best vehicle for evaluating and processing all
7 proposed changes, whether minor or significant. It also
8 allows the LEAs to judge each change on its own merit
9 rather than against a predetermined list.

10 Moreover, the EAC supports the timeline for the
11 operator to notify the LEA of a minor change as well as
12 the protocol for the LEA to challenge the operator's
13 execution of a minor change.

14 Finally, the EAC supports the development of an
15 LEA advisory to provide guidance on evaluating changes
16 using the decision tree and also to provide examples of
17 the minor changes.

18 Now, I'd like to switch hats and I'd like to
19 offer several comments on behalf of the South Central LEA
20 Roundtable. My comments focus on the noticing and
21 informational meeting requirements contained in the
22 response to comments.

23 The South Central Roundtable fully supports
24 deleting the informational meeting requirement for new
25 registration and standardized permits. However, we

1 strongly disagree with the informational meeting
2 requirement for new permits.

3 Board staff asserts that public meetings are not
4 held consistently, are too broad to address issues
5 specific to solid waste, or may be too old to be useful.

6 The South Central LEA Roundtable disagrees. In
7 our experience, public hearings are most likely to be held
8 at the local level for new projects and permits. Most
9 projects require some type of discretionary action, such
10 as a grading permit, a use permit or a zoning change.

11 The South Central LEA Roundtable believes that
12 the informational meeting requirement for new permits in
13 rural counties is too stringent. We propose that the
14 hearing should only be required under a few conditions:
15 First, where the CEQA hearing is more than a year old;
16 second, where the public interest in the project warrants
17 additional public meetings, such as if a project were
18 appealed from the local planning commission to the board
19 of supervisors; third, where the proximity or density of
20 sensitive receptors exceeds a threshold that would trigger
21 additional meetings; or, fourthly, where the LEA has
22 received requests for information from the public.

23 In urban areas, sensitive receptors may be
24 located very closely to project sites and in much higher
25 densities than in rural areas. While urban sites may

1 strive to create a 1,000-foot buffer zone, rural areas
2 often feature natural buffers of a mile or even more.

3 Also, rural LEAs often consist of a skeleton
4 staff. We fear that the proposed noticing and hearing
5 requirements will absorb a substantial amount of our time,
6 diverting limited resources from the critical tasks of
7 protecting the health and safety of the public and the
8 environment through inspections and enforcement actions.

9 In sum, while additional meetings may be
10 warranted in many circumstances, as previously outlined,
11 we believe that this blanket requirement on rural counties
12 will divert resources from the critical tasks in exchange
13 for minimal gains.

14 Thank you.

15 CHAIRPERSON MULÉ: Thank you very much.

16 Our next speaker is William Prinz.

17 MR. PRINZ: Thank you, Madam Chair and Committee
18 and Board members, for the opportunity to speak on this
19 very important regulatory package. My name is Bill Prinz
20 and I'm the Chair of the Enforcement Advisory Council and
21 with the City of San Diego LEA.

22 I'd like to thank Board staff, the LEAs and
23 industry representatives, that they've worked so hard to
24 put this product together.

25 I'd like to offer a few brief statements on the

1 draft response to comments.

2 First of all, we support staff's recommendation
3 to delete the minor change lists from the regulations for
4 the following reasons:

5 It retains and strengthens the LEA authority and
6 discretion. It supports the decision tree flow diagram so
7 that each proposed facility change can be considered on
8 its own merit rather than to whether or not it conforms to
9 a predetermined list.

10 We'd also support the development of an LEA
11 advisory to provide more detailed guidance to EAs and
12 operators as to how to evaluate changes to make the best
13 use of the decision tree. If there is to be a minor
14 change list, it belongs in an advisory document.

15 Also, it is reasonable that an operator should
16 notify an LEA of a minor change within 30 days. And if an
17 operator determines that an operator's minor change does
18 not qualify as such, that finding should be put in
19 writing.

20 Secondly, we would support staff's recommendation
21 to delete the significant change list from the proposed
22 regulations. Similarly, as previously stated, for the
23 minor change list an LEA advisory would provide a better
24 forum to address proper utilization of the decision tree
25 so as to enhance the LEA's ability to ascertain whether a

1 change at a facility is significant.

2 At its March 7th, 2006, meeting the EAC passed
3 Resolution 2006-02. We supported both the decision tree
4 and the deletion of the minor and significant change
5 lists.

6 I would urge the Committee to uphold the staff's
7 recommendations as stated in the draft response to
8 comments.

9 Thank you for your consideration.

10 CHAIRPERSON MULÉ: Thank you.

11 Our next speaker is Greg Pirie.

12 MR. PIRIE: Good afternoon, Chair and Committee
13 members. Good to see you again.

14 First of all, I think the process has been going
15 great. I think Mark and Bobbie and Becky have really put
16 a lot of -- the time that they've put in has really been
17 effective. There's a lot of issues on the table. And to
18 be able to not only organize them but have them be able to
19 present in a short amount of time, I think it's just been
20 great.

21 My comments are going to be short, because I
22 think a lot of the items that have been covered are on the
23 right track to really lead a lot of the permitting into
24 the next two years with -- I think there's going to be a
25 lot of good things ahead. Put it that way.

1 Just briefly, I think the decision tree and the
2 methodology that it has will be very effective, not only
3 with the small changes, but also the large significant
4 ones too. And realizing how you can use that methodology,
5 I do agree with staff's recommendation to delete the
6 significant and the minor change lists, just due to the
7 fact that if you do use the tree effectively, you're not
8 going to lose anything by not having a list in the
9 regulations; you're going to gain them by having more
10 discretion in the process that the LEA is going to go
11 through and then in trying to see how a facility operates,
12 not only in the urban but also in the rural. Because as
13 soon as you have a list that may be dictated on paper, it
14 doesn't mean that it's going to have the same effect from
15 facility to facility, urban and rural kind of issues.

16 And the only other item I wanted to talk about is
17 more on the informational hearings. And a little to echo
18 of what Matt talked about. We've been thinking lately
19 about just the issue of a lot of the -- even a lot of
20 the -- some southern California counties also but a lot in
21 the north to where you have main city clusters in your
22 county but a lot of rural areas also, having some kind of
23 discretion with the LEA in terms of what kind of
24 presentation you would have to do or not do with an
25 informational hearing. You know, possibly having it

1 dictated upon, you know, population density. If you're in
2 an area in one county where -- you know, not only desolate
3 but very little population, have some LEA discretion to
4 where they either can or can't do certain aspects of a
5 public hearing or not a public hearing; you know, maybe
6 based on population density, whether they've requested
7 complaints or requested information from the LEA.

8 And those are the comments. I think they're on a
9 great track. And any questions that you could ask of the
10 LEAs, we'd be happy to answer them as it goes along.

11 CHAIRPERSON MULÉ: Thank you, Greg.

12 Our next speaker is Justin Malan.

13 MR. MALAN: Madam Chair, members. Justin Malan
14 with the Environmental Health Directors.

15 Just to echo what the others have said before me
16 from the LEA camp. Great job. Staff has done an
17 outstanding effort here in pulling all these things
18 together. And it's kind of almost too much of a Kumbaya.
19 So don't worry. It's not as though the staff are so tight
20 with the LEAs that we're not going to have our
21 differences. Don't worry about that. It's just that it's
22 been a great process and a lot of outreach by the staff;
23 not an insignificant amount of effort was put into this.

24 Just to reiterate what the LEAs have said and,
25 that is, the decision-tree process should work well. If,

1 however, the Board feels very, very strongly from our
2 colleagues or our friends from the industry push for some
3 sort of list, I think it must be remembered that we have
4 to have some mechanism for kicking something in or out of
5 that list. You cannot eliminate the local discretion
6 completely.

7 So we would prefer to have the option proposed by
8 staff. If you do come up with a list, have it an advisory
9 list. I'm sure that would be adequate. But if in your
10 wisdom you decide there has to be a list that we have to
11 live with, make sure that we have a mechanism to use the
12 local LEA discretion and wisdom, knowing the situation
13 there, to bump something in and out.

14 Otherwise, thank you very much.

15 CHAIRPERSON MULÉ: Thank you.

16 Our next speaker is George Eowan.

17 MR. EOWAN: Good afternoon. George Eowan
18 representing California Refuse Removal Council. Thank you
19 for the opportunity to comment on this package of
20 regulations.

21 First of all, I wanted to start out as the others
22 have said, that this was a very, very good process that we
23 had. And for those of you that weren't around at that
24 point in time, just a little bit about what that process
25 involved, because it bore some very, very good fruit out

1 of that process.

2 What it was was it was LEAs, industry people and
3 others getting together for a long period of time -- I
4 don't know, several days, I think, Howard -- where we went
5 through these questions of lists at the direction of the
6 Board. What's -- you know, should there be a minor change
7 list, should there be a significant change list? If so,
8 what should be on the minor change list and what should be
9 on the significant change list?

10 Now, we spent most of the time -- and I don't
11 remember exactly how much went into the minor versus the
12 significant part -- but we spent most of those workshop
13 days on the minor change concept. And as Mark iterated
14 earlier, we came up with I think at least two minor change
15 lists, one that the majority of the people in the room
16 agreed to. And I remember it being a hundred percent, but
17 it was high. I don't know, 90, 100 percent of the people
18 agreed to the list. So if you look on your Option B,
19 you'll see that list I believe.

20 Then there was a second minor change list that,
21 as Mark said, maybe 60 percent of the people agreed to.
22 That's the LEAs that were in the room, the industry folks
23 that were in the room, and so forth and so on.

24 And the reason we did that is because we were
25 trying to accomplish a couple of things. And the first

1 thing was some clarity about, you know, when do we get
2 into a permit modification or permit revision mode here?
3 Do we really need to go -- we like -- we all like the
4 decision-tree concept. That's kind of a given. And I
5 think it adds a lot of clarity. But do we really need to
6 go through a decision tree when we change an address or a
7 telephone number, or is that really necessary?

8 And really we debated all of these things ad
9 infinitum in these meetings and came up with this minor
10 list. And so now to hear that, "Well, I don't want the
11 minor list. I want to go through a decision tree," it's
12 confusing to me why we need to do that, because I think
13 we've already covered that ground in these workshops.

14 So we would advocate for keeping the minor change
15 list as it is in Option B, because I think it really does
16 reduce a lot of the administrative time that everybody
17 would have to go through, operators, LEAs, and so forth
18 and so on.

19 Now, to the issue of flexibility and
20 inclusiveness or all inclusiveness. Flexibility's fine.
21 There's an argument that could be made that maybe today's
22 minor change list may not be tomorrow's minor change list
23 or next year's or five years from now. Okay. We can add
24 some language I think that would say that the LEA has some
25 flexibility when it affects the public health and safety,

1 when it affects minimum standards or whatever. But give
2 the LEAs the opportunity to pull something out of that
3 list that says, "Well, now this time when you change the
4 color of your bins or move something somewhere, that is
5 not a minor change because of..." and that's okay. So
6 we're not opposed to that. But to say, okay, now let's
7 take the list -- this minor list and put it somewhere, I
8 think adds more confusion than anything else. I don't
9 really think it does add guidance. It's either minor or
10 it's not minor, you know.

11 And if you want to evaluate some of these things
12 on a case-by-case basis, that's fine. Go ahead. But, you
13 know, we need to have that as a form of clarity.

14 As I said, the significant change list did not
15 receive, I don't think, as much input and debate and
16 discussion as the minor change list. And as a result, I
17 don't think the significant change list is as good. I
18 think it -- we were advocating earlier for some kind of
19 numeric quantitative values on some of these issues. And
20 I noticed that's not in the package and -- okay.

21 But I still think that a significant change list
22 could be made and it could be something that, again, would
23 have some flexibility and inclusiveness in there that
24 would I think satisfy the LEAs. But it's not going to
25 happen without more dialogue and discussion amongst all

1 the stakeholders.

2 Just moving on. The public hearing process, from
3 the colleagues -- my colleagues that I've discussed this
4 with, has turned out to be a good thing, I think. I'm
5 hearing very good reports about the public hearing
6 process. I personally haven't gone through anything like
7 this in the permits that I've worked on. It always seemed
8 to me to be a bit onerous, because there are a lot of
9 public hearings involved in the permitting process. But
10 I'm hearing good reports, and so I think that is good.

11 The other comment I wanted to make is on the -- I
12 guess two other comments. One was on the modification
13 portion where the Executive Director has authority to sign
14 off on a permit. That's fine. I think that is there for
15 the ability to expedite some of these things.

16 The area that I'm not clear about and I'd like
17 some clarification on at some point, not necessarily right
18 now, has to do with if the Executive Director decides not
19 to approve -- or to object to that situation. I believe
20 if this Board decides not to -- or to object to a permit,
21 you have to do it on the basis of complying with the
22 minimum standards and so forth. And I don't see that
23 language directly in this law, in these regs. And I don't
24 know that it's necessary to put it in there. Maybe it's a
25 de facto issue, which is fine. I'd just like that

1 clarified.

2 And then, finally, on the land-use -- the local
3 land-use issue as it relates to consistency with CUPs and
4 so forth, I like that approach that was suggested in the
5 language and by Mark, which is to say that the LEA would
6 take into consideration local land-use permits and so
7 forth as they're developing their Solid Waste Facility
8 Permit document. That's a good thing. I think they
9 generally do that anyway. And in my experience again, I'd
10 found that most of the time the solid waste permit and the
11 CUP tend to mirror each other, more than anything. I mean
12 maybe there's some discrepancies here and there for local
13 reasons. But in general I think they mirror it. So this
14 approach is a good one.

15 That's my comments.

16 CHAIRPERSON MULÉ: Thank you.

17 We do have a question for you, George.

18 COMMITTEE MEMBER WIGGINS: When you said if the
19 Executive Director does not approve, then you want it to
20 be able to come to the Board for --

21 MR. EOWAN: No, no, no.

22 COMMITTEE MEMBER WIGGINS: What do you want?

23 MR. EOWAN: What I was suggesting is that he --
24 it says in the language that he has to have an explanation
25 why he does not approve. And I want that to be consistent

1 with the explanation that this Board would have to have in
2 the case of your rejection of a permit, which is to say
3 that the law says that you have to show that this facility
4 permit would not meet minimum standards or that the public
5 health and safety would be harmed in some way and you
6 would identify what that would be.

7 COMMITTEE MEMBER WIGGINS: Thank you.

8 MR. EOWAN: And I'm just asking for that
9 explanation by the Executive Director. And I know Mark's
10 capable of doing that.

11 CHAIRPERSON MULÉ: Michael, do you have something
12 to add to that?

13 STAFF COUNSEL BLEDSOE: Yes, Madam Chair.
14 Michael Bledsoe. Very briefly.

15 It's not necessary to add language to these
16 proposed regulations, because the Executive Director would
17 have no more authority and no different authority than
18 that which the Board has under Section 44009. So exactly
19 what Mr. Eowan is talking about would be the only bases on
20 which the Executive Director could object of those laid
21 out in 44009.

22 CHAIRPERSON MULÉ: Okay. So there's your answer.

23 MR. EOWAN: Thank you.

24 CHAIRPERSON MULÉ: Thank you. Thank you for your
25 comments.

1 Next is Martin Aiyetiwa, County of Los Angeles.

2 Good afternoon, Martin.

3 MR. AIYETIWA: Good afternoon, Madam Chair.

4 Thank you giving us the opportunity to provide comments on
5 what the staff has proposed.

6 First, I would like to thank the staff for taking
7 the time to go through this process. And during that
8 process staff did make efforts to contact to us and to
9 work with us in resolving some of the issues that we have.

10 However, going through what staff have
11 recommended today, we do have significant issues that
12 remain between what the County of Los Angeles is proposing
13 and what staff has proposed. One of the issues important
14 to us -- L.A. County, we have -- a majority of the
15 landfills in the state are in L.A. County -- the biggest
16 ones are in L.A. County. And we also have at least
17 about -- a total of the population is in L.A. County. So
18 the decision -- this permit -- the rules here are
19 following parts a lot of people in L.A. County and it's of
20 interest also to the county.

21 We -- majority of the landfills in the county
22 also are in the county in unincorporated areas. So -- and
23 we -- as you can note that recently in the press, our
24 county board of supervisors has expressed of interest
25 regarding land-use permit processes in L.A. County.

1 So we do have significant issues. And to make it
2 short, I would like to summarize those issues briefly.

3 The three main issues that we have with this
4 regulation are:

5 First is the issue of the land-use process, the
6 recommendation to remove the land-use permits from the
7 application.

8 The second, we do have issues with the staff's
9 recommendation regarding the significant change.

10 And thirdly, we do have issues regarding the
11 definition for what consisted design of a facility and
12 what consisted the operation of a facility.

13 So I would briefly go through each of these
14 items.

15 Which respect to the land-use permits, we do
16 believe that, as the last speaker did emphasize, that if
17 you look at a land-use permit and a solid waste facilities
18 permit, for the most part they do mirror themselves,
19 except in some cases whereby they are -- the LEA has some
20 minor changes here and there to it. But for the most
21 part, we do believe that they mirror themselves. And as
22 such, they should be part of what is to be considered by
23 the LEA as opposed to being deleted.

24 We also do believe that if -- in the letter that
25 we sent to the Board, in our letter dated June 6, 2006,

1 which we do send you a copy -- we send each Board member a
2 copy of that letter and we send it to the Executive
3 Officer of the Board. The second item that we have on
4 that letter did emphasize the importance that we have
5 placed on this land-use process.

6 And so if you look at what we are recommending,
7 we are recommending that this process -- that item be
8 expanded. And today the Waste Board staff has recommended
9 that that item be deleted. So you can see that there are
10 two very -- we are -- at present we are wider apart today
11 than we were before, because we want it expanded, Waste
12 Board staff wants it deleted.

13 So we do believe that that is a significant issue
14 as far as that we're -- we'd like to recommend that you
15 please direct staff to work with us to try to find at
16 least some amicable solution how we can reconcile these
17 differences.

18 The second issue is the issue that staff
19 recommends the significant change item be deleted. We
20 disagree with staff's recommendation on that item. And we
21 would like to recommend that your Board adopt staff's
22 Option B, which is on page 15, of Attachment 1. What
23 Option B does is to clarify the definition of "significant
24 change" and at the same time retain the significant change
25 lease. We believe that the Board staff did conduct

1 extensive workshop regarding this, and several of the
2 people, we participated in that process. And we believe
3 that the process should be allowed to move forward since
4 there is a lot of consensus among the people that
5 participated in that process. So we believe that that
6 item, Option B, should be adopted by your Board.

7 On the third issue that we have, which is on the
8 issue of the definition of "design" and on the definition
9 of "operation," we do believe that the current definition
10 of "design" in the regulation is too vague and ambiguous.
11 And we would like to recommend that that definition be
12 expanded or be clarified. We have provided an alternative
13 language on how it should be clarified and how -- what we
14 think it should be. We would like to recommend that you
15 take a look at that. It is also in our letter dated June
16 6, 2006, which reflects what we are recommending. And
17 that is summarized.

18 On the basis of -- we would like to recommend
19 that you not approve staff's recommendation today and give
20 staff enough time to work with the local agencies like the
21 Department of Public Works for us to resolve these
22 differences.

23 Thank you.

24 CHAIRPERSON MULÉ: Thank you, Martin.

25 Our next speaker is Chuck Helget.

1 MR. HELGET: Madam Chair, members of the
2 Committee and members of the Board. I'm Chuck Helget
3 representing Allied Waste Industries.

4 Staff has done a really incredible job, and we're
5 here in support of this regulation package today. What
6 they have produced is a package that will add clarity and
7 certainty and it will also streamline the permitting
8 process. And I think that's a win-win all the way around.

9 Specifically we would support the decision to
10 reproach that's contained in the regulations. We think
11 that's a very well supported approach.

12 We also support the fact that the LEA should
13 consider the conditional use permit provisions in the
14 beginning of the permit development process, but not
15 necessarily be part of the correct -- the determination of
16 completeness and correctness part of the permit process.

17 We also support Option B, which is the inclusion
18 of a minor change list in the regulation package. And we
19 support that with some additional changes to that. First
20 of all, we have some concerns that the way that the
21 regulations are written at this point, your Section
22 21620(a)(1)(d) taken literally might in fact then say that
23 any change in the RFI would be in conflict with the
24 existing RFI and you couldn't make any subsequent changes.
25 So I'm suggesting that those -- that that section be

1 removed.

2 We are also urging that the regulations allow the
3 LEA's flexibility. As you've heard testimony today, we
4 agree, there should be local flexibility, but there should
5 also be certainty in the process. So with a list we would
6 suggest that -- you already have in the regulations a
7 safety valve that says that if an LEA -- if we give an LEA
8 notice -- a 30-day notice that we're going to do something
9 that we consider a minor change, they look at it and they
10 come back and they say, "No, that's not minor in this
11 case," they're going to make a finding and we're going to
12 be stopped from doing it. We think that's a good thing.
13 That's a safety valve on one side.

14 We think the regulations should include a safety
15 valve on the other side too where an LEA could look at a
16 minor change, that's not necessarily on the list, make a
17 determination that it fits the requirements that are
18 stipulated in the regulations and allow it to be a minor
19 change. So as Justin I think suggested, as George Eowan
20 suggested, safety valves on both sides of that process I
21 think would be good. I think it gets us to the point of
22 providing certainty with some flexibility for local
23 considerations.

24 As a quick example to kind of put this into a
25 perspective for you. If we would choose to put in our RFI

1 today at a landfill, our gas collection system -- which
2 should be a good thing, a good piece of information -- not
3 the landfill monitoring wells or anything like that, but
4 how we're going to structure our landfill gas collection
5 system -- that landfill gas collection system changes
6 perhaps on a monthly or bimonthly basis because the nature
7 of the landfill changes. But if we have that in the RFI
8 and we're not on a minor change list, we could be in a
9 position of having a notice I think with 180 days before
10 we change our landfill gas systems because we included
11 some information in an RFI. We should be encouraging
12 these RFIs to be descriptive, not to be vague and
13 nondescriptive, and I think we have to strike that
14 balance. And I think the regulations come quite close to
15 that.

16 Finally, we would also support a significant
17 change list. Moving forward we think that there should be
18 a good definition, a solid definition, a very firm
19 definition of what a significant change is. And we think
20 that lists may be the best way to do that at this point.
21 And so we're supporting Option B.

22 That's it. Those are my comments.

23 CHAIRPERSON MULÉ: Thank you very much.
24 Appreciate it.

25 Our next speaker is Larry Sweetser.

1 Good afternoon.

2 MR. SWEETSER: Good afternoon, Board members.

3 For those of you that went, I hope you enjoyed El
4 Dorado County. We were quite pleased to have the
5 distinction having you announce the 50 percent diversion.

6 CHAIRPERSON MULÉ: I think we had a good time.

7 MR. SWEETSER: If anybody wants to hear the Modoc
8 story and you didn't, I can tell you later.

9 I'm going to join in the agreement on a good
10 process. We had a lot of arguments -- actually I mean
11 discussions -- on the issues. It was quite refreshing to
12 do this in a work group rather than to have to have these
13 arguments during when you have a permit pending. So we
14 look forward to this process.

15 The key issue is whether to have a list or no
16 list. And from talking to my rural folks, we're okay with
17 the list. We can understand both sides. But I mean the
18 list helps overall.

19 One big issue though is if there is a minor
20 change list, our big concern is that it also be described
21 as not being all inclusive. There are other things that
22 will be on there. That understanding I think was inherent
23 in all the discussions, but it's not clear to me in the
24 text that it can allow other options to be in there. So
25 we'd hope and recommend that that would be a change to the

1 process to allow flexibility on what would be on that
2 minor change list.

3 My great hope in this process is that, if you
4 remember back to the first meeting, that we won't have to
5 get a permit revision if we want to move our portable
6 toilet across the street.

7 The next issue was the definitional ones of
8 significant change and minor change. We think they work
9 pretty well. The concern especially on the minor change
10 list is that it's linked to any physical change. And I
11 was really concerned about that. But I had a great
12 meeting with Mark and Bobbie where we resolved that. And
13 they clearly explained to me that in order -- you can have
14 a physical change and be a minor change as long as it's
15 not a change in your solid waste permit. So that was
16 comforting to have that assurance in there, because that's
17 a critical distinction. And even if you have a change on
18 your permit, there might be some leeway to allow it if
19 that is a modification or an amendment.

20 The next question I had was on the minor change
21 list itself. Some people talked about where you cannot
22 conflict with the design and operation as described in the
23 current RFI or transfer processing report. "Conflict" can
24 mean a lot of different things to different people. I
25 mean any change could result in a conflict with some

1 folks. So I'm a little concerned about that wording being
2 "conflicting with"; because if we change something and
3 nobody cares, is that still a conflict? So maybe a little
4 clarity on that portion.

5 We do support the staff delinking the conditional
6 use permit from the process. That's probably been a
7 really big issue in discussions before, what the use
8 permit really says.

9 The next item is -- I mean just a reminder to
10 keep in mind, that the LEAs have control over terms and
11 conditions of a permit. If we don't like it, we have to
12 live with it. So there is a check and balance in the
13 system.

14 And, lastly, on the public hearing issue, we
15 really don't have too much of an issue from my rural
16 county members. They do it all the time. They have
17 hearings. In fact, one of our -- Tehama County actually,
18 their landfill is basically a discussion on every weekly
19 agenda of the board of supervisors or the authority. So
20 there really are no secrets in the rural counties.

21 So thank you very much.

22 COMMITTEE MEMBER WIGGINS: Excuse me.

23 So you represent the rural counties by what
24 organization?

25 MR. SWEETSER: Oh, the Rural Counties

1 Environmental Services Joint Powers Authority, affiliated
2 with RCRC, the Regional Council of Rural Counties.

3 COMMITTEE MEMBER WIGGINS: Oh, yeah.

4 MR. SWEETSER: Yeah, 22 members of ours.

5 COMMITTEE MEMBER WIGGINS: Thanks.

6 CHAIRPERSON MULÉ: Thank you, Larry.
7 Rebecca.

8 MS. LAFRENIERE: Good afternoon, Madam Chairman
9 and Committee members. Rebecca Lafreniere with the City
10 of San Diego Solid Waste Local Enforcement Agency.

11 I too would like to thank staff for their effort
12 and time into this entire process, including LEAs and
13 industries only making a more productive product.

14 With that said, the City of San Diego fully
15 supports the decision tree as described in the proposed
16 regulations. The decision tree provides an approach for
17 an efficient processing of operational and design changes
18 at solid waste facilities dependent upon the resultant
19 impacts of the proposed changes. The real benefit of the
20 decision tree is that it -- the whole concept is eliminate
21 it of a cookie cutter. With the diversity of California
22 and even within specific counties, a one approach doesn't
23 fit all situations. And that is why we're opposed to
24 Alternative 3 of the significant change list.

25 The inclusion of the significant change list is

1 in direct opposition for our reasons for supporting the
2 decision tree. The significant change list attempts to
3 implement a one-size-fits-all model throughout the state
4 and throughout the county, and we just cannot support
5 that. So we support staff's Option A on this approach.

6 The other thing I'd like to mention is the
7 relationship of the Solid Waste Facility Permit to the
8 land-use entitlements. The LEA agrees that the proposed
9 regulations must avoid promoting or creating any conflict
10 between host jurisdictions and local land-use permits and
11 the entire -- or the Solid Waste Facility Permit.
12 However, we do not want to create a situation where the
13 LEA is put in a position of enforcing local land-use
14 entitlements through the Solid Waste Facility Permit. We
15 feel very strongly about that.

16 The LEA supports the approach staff has taken
17 with the expansion of Section 21650 to indicate that LEAs
18 should take into consideration Public Resources Code
19 440112, which requires the LEA to ensure that the primary
20 consideration is given to protecting public health, safety
21 and preventing environmental damage, and the long-term
22 protection of the environment.

23 And, lastly, the LEA supports the application
24 package being routed to the local land-use decision
25 makers. They should be aware that the LEA is taking

1 action on a solid waste facility permit.

2 Thank you.

3 CHAIRPERSON MULÉ: Thank you, Rebecca.

4 Our next speaker is Chuck White. And then our
5 final speaker is Mike Mohajer.

6 MR. WHITE: Thank you very much --

7 CHAIRPERSON MULÉ: Good afternoon.

8 MR. WHITE: -- Madam Chair and members of the
9 Committee. Good afternoon. Chuck White with Waste
10 Management.

11 I'm going to join in the chorus of the people
12 that are heaping the praises on both Mark and Bobbie -- or
13 should I say Burning Woman Garcia? Both of these
14 individuals have been very accessible. And it's not only
15 as part of this rule-making package. They're always
16 accessible to answer questions regarding your regulations
17 or other issues before the Board. And I hope this Board
18 and this Committee recognition what valuable assets you
19 have in both these outstanding individuals. And we
20 certainly enjoy -- not that we always agree with them, but
21 we certainly enjoy working with them and they're
22 delightful people to work with.

23 Waste Management supports the package as it's
24 proposed with one exception. And I'll go into more depth
25 on that. We think it's a good package. It's been through

1 a lot of discussion and debate.

2 The only area that Waste Management would like to
3 see it changed from the staff proposal is in the area of
4 minor changes. And the basic reason is we're in business
5 and we'd like to be able to have some certainty about what
6 we can and cannot do with respect to what requires a
7 permit change.

8 There's no -- we're not arguing about major
9 changes to facilities or significant changes. We think
10 that the decision tree process works very well with that
11 regard. But we're always wondering about little minor
12 changes and whether or not that's going to slow down the
13 process of making just normal day-to-day adjustments in
14 the overall process of conducting our businesses through
15 the myriad of divisions that we have around the state.

16 With respect to this minor change list, we would
17 like to have a broad list specifically included in the
18 regulation of what constitutes minor changes. The Option
19 B that you had before you is close to that, but not quite
20 there with one respect. And that is in Section
21 21620(a)(1)(d) where it says, "The change does not
22 conflict with the design and operation of the facility as
23 provided in the current RFI and is listed below."

24 That "and" means it has to meet both tests in
25 order to be a minor change. It cannot be a conflict with

1 the design and operation and it has to be specifically
2 listed below. If it's not specifically listed below, then
3 it can't be a minor change.

4 Our concern is that there may be other minor
5 changes that would -- and I think the LEAs would agree.
6 That's one of the reasons why they don't like this list is
7 they think there may be other things out there that we
8 haven't thought of adding to the list.

9 I think my suggestion will address this concern,
10 is that you just simply delete "and is listed below" and
11 say "includes but not limited to this list." So we can
12 live with the "doesn't conflict with the design and
13 operation of the facility" if it is specifically
14 understood that this list -- that the minor change
15 includes this list but it's not necessarily limited to
16 this list.

17 Then you could say, "Okay. Well, what if someone
18 makes a mistake and tries to slip one through?" That's
19 always a possibility on any of these options that are
20 before you. But that is fully protected in a provision at
21 the bottom of the next page where it says -- I'm not sure
22 I can give you the actual citation -- but it says, "The
23 notice is for informational purposes only, is not subject
24 to EA compliance measures. However, if the EA determines
25 at a later date that the change does not meet the criteria

1 for minor change, the EA shall provide a finding to the
2 operator in writing as to why the change did not qualify
3 as a minor change and the EA shall require the operator to
4 comply with all applicable requirements." This is a
5 safety valve.

6 So what I'm suggesting here is a safety valve
7 both ways. You create a list. It's not necessarily an
8 all-inclusive list. But if someone makes a mistake and
9 steps over a boundary, the LEA has always the ability, the
10 power to reel it back in to make sure it's okay.

11 So I would strongly suggest -- oh, and the only
12 other concern we have, and I think it's fine, is that we
13 would want to make sure if there is a disagreement about
14 whether or not a minor change was properly pursued or not
15 that there's always the opportunity to appeal that issue
16 to the Board for further consideration. And I understand
17 the appeal procedures -- my understanding is anyway is
18 that we would -- if there was a disagreement between an EA
19 and operator as to what constitutes a significant change,
20 that could always be brought before this Board for further
21 discussion to render a final decision. And with that
22 understanding, I think we're fine.

23 So, again, that's -- I think we're very
24 supportive of the package. It's been a long and arduous
25 process. We've all kind of maintained a smile on our face

1 throughout -- hopefully throughout the whole process. And
2 the only thing that we would like is to have a specific
3 list, just to give us some certainty that when we conduct
4 our day-to-day minor operations, that there isn't -- you
5 know, we've got some certainty that we can do these
6 things, if they're in the regulations that there's
7 something there backing us up. And I can't imagine
8 anybody having a major concern over these significant
9 change -- these minor changes with the understanding the
10 EA can always reel it back in at the end of the day.

11 Thank you very much.

12 CHAIRPERSON MULÉ: Thank you, Chuck.

13 Mike Mohajer.

14 MR. MOHAJER: Good afternoon, Madam Chair,
15 members of the Board. My name is Mike Mohajer. I'm
16 before you today representing the Los Angeles County
17 Integrated Waste Management Task Force, serving a
18 population of approximately 10 million.

19 Like previous speakers, I also want to thank
20 Bobbie, Mark, Howard -- well, he's not -- for really the
21 hard work that they did. The process has been lengthy.
22 But they really work hard and I just want to express my
23 appreciation to them.

24 We had a telephone conversation August 3rd with
25 the people I just mentioned in reference to the comments

1 that the task force has submitted back in June 6th. And
2 you all -- you were provided with a copy. If you don't
3 have it, I'll be more than happy to e-mail you a copy.

4 And after the discussions and the staff
5 recommendation that was put on the website, I sort of
6 believed that there was a light at the end of the tunnel
7 as far as addressing the issue that we had raised in our
8 letter, until this Attachment 1 revised came out, which
9 they made significant changes from -- based on what we had
10 discussed or at least what I have seen on the website.

11 So having said that, we have certain -- with the
12 proposed stuff that we have problem with. The first one
13 is a land-use issue. The second one is in reference to
14 the significant change. The third issue is in reference
15 to definition for design. And the fourth issue is
16 definition for defining operation of a facility.

17 In reference to the land-use permit, and
18 specifically -- at least the staff and throughout their
19 discussion of numerous pages, they recognized the major
20 role, the critical role that the land-use permit plays in
21 any type of solid waste facility permit. And in our
22 letter we made a reference to the Public Resources Code
23 44009 or 00 -- 1440012 that really the whole purpose of
24 going through the Solid Waste Facility Permit is to
25 protect public health and safety as well as the

1 environment.

2 And also this is the same requirement that the
3 local land-use agency will go through. And in many cases,
4 the local land-use permit is -- are more restrictive than
5 the mitigation measures that are less than in the CEQA.
6 In most of the land use permits you see a lot of
7 specification as far as the operating hours, the design
8 capacity, the quantity of materials that are delivered to
9 the site for beneficial use, and so and so on. So it
10 becomes critical that the solid waste facility because it
11 plays a major role compared to the other permit, as it
12 compares to the land-use permit, then there should be some
13 consistency.

14 So as what the staff has recommended now, they
15 propose to delete the existing, longest standing
16 requirement the applicant is required to provide a copy
17 land-use permit as a part of their application. It's been
18 there for many, many years. And for some of you that
19 don't know me, I'm involved with issue for 34 years. And
20 I've written at this from land-use permit before my
21 retirement for the L.A. County for -- I don't know how
22 many landfill -- at this point those landfills that are
23 operating currently in L.A. County there are 40,000 tons
24 per day. So I'm pretty involved with the issues.

25 And so they eliminated that requirement, and they

1 go and state that, well, the LEA is not in a position to
2 verify the correctness of the permit, which is fine. And
3 they said it also would be better to move, as Mark said,
4 into the other section, which it is reasonable. However,
5 the part of the problem is that once the applicant submit
6 the application to the LEA, or EA, and the EA deems the
7 application complete and correct, remember, with the staff
8 proposal, the land-use permit is no longer there. So once
9 the EA makes that determination, within 60 days they have
10 to draft solid waste permit as submitted to your Board,
11 and you have to make a decision within 60 days from that
12 date regardless of whether there is a land-use permit or
13 not.

14 Take another example of a permit that may come
15 before you sometime between next few months, let's look at
16 the Sunshine Canyon in Los Angeles County.

17 The land-use permit for the combined Sunshine
18 Canyon has yet to be approved by the County of Los Angeles
19 Board of Supervisors. However, the applicant has already
20 applied for a revised solid waste permit. So when you're
21 telling me in this regulation that the LEA will consider
22 the requirement of the land-use permit in drafting the
23 solid waste permit, you can't do it. There's no
24 way -- you can't do it because you're under that mandate
25 of 60 days.

1 So for that purpose, at least the recommendation
2 is that you will keep the requirement for the applicant to
3 submit the land use permit. But at the same time you put
4 the language back in there that the LEA is not going to be
5 responsible for verifying the correctness of it or not.

6 So that would be one suggestion. Plus providing
7 that the language that they have added back in sections --
8 I wrote it down, that Mark had referred to it, that the
9 LEA should be aware -- I had a problem with the word
10 "aware" -- and consider to maintain those languages in
11 there.

12 Then in reference to the significant change
13 for -- when AB 1497 was enacted, one of the major issues
14 that was brought up -- one of the major issues that was
15 brought up that justified the proposal for AB 1497 was to
16 define what does it mean by significant change? That was
17 one of the main reasons that AB 1497 was brought up. And
18 so, needless to say, we don't agree with the staff
19 recommendation.

20 We recommend Option B, which does have the list.
21 However, we would like that list to be expanded to also
22 include the closure of a disposal facility -- not transfer
23 station -- that the closure of the disposal facility is
24 extended. All the landfills at least in Los Angeles
25 County, they all have a closure date.

1 So when you go -- let's say you want to -- your
2 residence, your house is within the vicinity of the
3 landfill. You think, okay, the landfill is going to close
4 in ten years. Ten years from now the operator comes and
5 says, "Well, I want to extend it additional ten years."
6 As the staff proposed, that is not a significant change.
7 To us, that is a significant change. And therefore any
8 extension of the closure date of the disposal facility
9 should be considered significant.

10 In reference to the design definitions, in our
11 letter of June 6th, on page 6, we have very specifically
12 indicated that the design of the facility should include
13 the maximum allowable daily tonnages -- we went through it
14 with the Looney Transfer Station this morning. The design
15 should indicate the maximum allowable daily tonnage that
16 are delivered to the site for disposal or beneficial use
17 or separation by shipping it out of the facility for
18 outside the facility beneficial use, because all this
19 activity generates traffic. And the impact of the
20 traffic, where do they come and go, has to be considered.
21 And these are the requirements that are in all of the
22 solid waste facilities that these produce that are in the
23 county area.

24 We also had requested or indicated that the
25 definition of the word "design" also has to be expanded to

1 include gasifications. This is part of the thing that is
2 really dear to County of L.A. and the task force and some
3 of you on the Board, talking about
4 alternative -- conversion technology. Under the AB 2770,
5 gasification has been separated as taken out of the Board
6 transformation.

7 CHAIRPERSON MULÉ: Mike, we have -- I believe we
8 all have a copy of that letter.

9 MR. MOHAJER: Right.

10 CHAIRPERSON MULÉ: So if you could just keep --

11 MR. MOHAJER: I have one more after this. But
12 the fact is it has been ignored. It is over here. But no
13 reference has been made to the word "gasification" that we
14 have indicated.

15 Finally, as far as our operations are concerned,
16 we'd like to see the hours and days of operation and also
17 whether they work on Sundays or not. And if they work on
18 Sunday, what are they allowed to receive, if any.

19 Thank you.

20 And I just want to mention the reason I indicated
21 this stuff, because even though it is in writing, but it
22 was -- we discussed it, but it didn't come through.

23 Thank you.

24 CHAIRPERSON MULÉ: Okay. Thank you.

25 Well, that concludes our public comment here.

1 I'm sure we have questions and comments here from our
2 Board members.

3 I know that we do have a 2 o'clock meeting. I
4 just want to say right now -- what we're going to do,
5 Howard, is we're going to make a little bit of a change.
6 The item that we were going to hear, Item 10, with
7 concurrence of the Chair and with the Committee members,
8 we can move this to the full Board, because this is an
9 item that we did want the full Board to hear anyway. This
10 is on the permitting process. So we thought it's probably
11 more appropriate to hear it at the full Board anyway. So
12 we will do that.

13 We also do have the Victorville item that we need
14 to hear.

15 So with that, I will open this up to questions or
16 comments.

17 Board Member Wiggins.

18 COMMITTEE MEMBER WIGGINS: Mark, you said --
19 well, the notice seems late in the process. The RFI
20 findings on page 21 completed by the LEA, that seems late
21 in the process, the RFI findings completed by the LEA on
22 page 21.

23 I just thought that -- doesn't that seem late for
24 the public?

25 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

1 It's a choice that staff was trying to -- they
2 had to make relative to the comments that we received.
3 Initially the notice was during that 30-day process. The
4 RFI amendment process is an LEA-only process and it's 30
5 days from application to a decision. It's an existing
6 reg. And initially we had the reg saying that ten days
7 prior to the LEA taking an action on that application they
8 would have to notice people that they were -- there was
9 this application and process. That would allow the public
10 to be aware of it, that it was occurring, and participate
11 by, you know, calling the LEA or whatever. There's no
12 meeting associated with RFI amendments, so it would just
13 be a notice. And it's a pretty low level notice. It's a
14 posting on a bulletin board, posting at the site. It's
15 not a mailed notice for RFI. These are very minor changes
16 that usually occur in RFIs. So we have a corresponding
17 notice. It's not a permit action.

18 So certainly by moving it after that 30-day
19 process for noticing, it's after a decision is made. But
20 there is an appeal process for any action taken by an LEA.
21 So if someone becomes aware of an RFI that's been amended
22 and approved by the LEA, they have the opportunity to
23 bring that question, that issue, that action to a local
24 appeal process in the form of their local hearing panel or
25 decision officer.

1 So, yes, they hear about it after the fact. But
2 they also can go back and address any issues they have
3 with it. So given that, staff thought, you know, to make
4 it work, make it flow, we would opt for a post-notice as
5 opposed to a pre-notice.

6 COMMITTEE MEMBER WIGGINS: So these are
7 insignificant changes?

8 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

9 Well, it certainly -- the way we're defining
10 "significance" in these regs, they're not even close --
11 they're not even close to the significance.

12 COMMITTEE MEMBER WIGGINS: Okay. Thank you.

13 The confusion for me is on Montaez' bill that
14 we're looking at here, and it talks about significant
15 changes, well, when we had the -- I don't know if it was
16 Sunshine Canyon, but by Sun Valley, La Tuna Canyon -- and
17 her bill didn't apply I thought because it was an existing
18 facility.

19 CHAIRPERSON MULÉ: You're talking about the
20 American Waste permit that was pulled?

21 COMMITTEE MEMBER WIGGINS: Yeah.

22 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23 The way that we've been interpreting the statute
24 in lieu of these regulations is that the statute indicates
25 that if there's a significant change to a facility that

1 requires a change to the permit, that then that permit

2 would require a revision to that. So that implies --

3 COMMITTEE MEMBER WIGGINS: -- bill kicks in?

4 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

5 Pardon?

6 COMMITTEE MEMBER WIGGINS: Her bill kicks in

7 then?

8 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

9 Yes. If there is a permit that needs to be

10 revised because of a significant change, what we've --

11 now, here's the subtlety, is what we've been dealing with

12 is sites that have no permit or have a lesser tier permit

13 now moving up a tier or now getting a new permit. They

14 never had a permit to revise, so they're getting a new

15 permit. And it's been staff's opinion that the statute

16 doesn't apply to new permits. With these regulations,

17 though, we will --

18 COMMITTEE MEMBER WIGGINS: And that's what we

19 were working --

20 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

21 -- we will be applying it to new permits with

22 these regulations. We will clarify.

23 COMMITTEE MEMBER WIGGINS: Well, that's good.

24 There was the issue -- and although Larry

25 Sweetser didn't comment on this -- but the rural counties

1 having a skeleton crew to go through some of these
2 processes. I think that's a good point, because rural
3 counties are poor, well, for the most part. So what are
4 we going to do about that?

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

6 Well, the regs continue to include the concept of
7 the substitute meeting. And that's part of what I heard
8 from the LEA, I think Mat5, brought up, that many of these
9 facilities go through a very lengthy local process, CEQA,
10 local hearings, and that sort of thing. As long as the
11 LEAs are participating in that, they don't need to do
12 anything extra in terms of a public meeting. They can
13 point to that previous local hearing done by the planning
14 commission or board of supes as equal to their meeting.
15 So that is some flexibility for any LEA, not just the
16 poorer counties out there that have to deal with that
17 process.

18 There is a level of noticing, it is in 1497,
19 applicable to revised permits again with these regs.
20 We're applying it to new permits. So there is notice,
21 it's a written notice, to people within 300 feet. So if
22 you're out in the boonies, there's not that many people
23 within 300 feet, so it's maybe a few dozen notices, not
24 hundreds like some of the urban entities will have to deal
25 with.

1 COMMITTEE MEMBER WIGGINS: The other issue is
2 when they were speaking about wanting the minor list
3 included, I mean I kind of understand that. But I do
4 agree with the speaker who said that "and is listed below"
5 should be taken out. Because if you have a minor list and
6 then it has -- it's referred to as inclusive, that doesn't
7 kind of make sense because it takes away the issue -- I
8 think the meaning of a minor list.

9 So that's my comments.

10 CHAIRPERSON MULÉ: Thank you.

11 Board Member Peace.

12 COMMITTEE MEMBER PEACE: So if an operator does
13 have a disagreement with an LEA over if something is a
14 significant change or an insignificant change, they can
15 bring that to the Board and we can -- I mean they can ask
16 the Board what we think or they can take it to a hearing
17 panel? What did I hear you say about that?

18 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

19 Yes. And that's why we didn't pick up that
20 aspect that closely in these regs, because staff is aware
21 that through statute and through reg there is a -- or
22 through statute, not through reg, there is an appeal
23 process available to -- certainly to the operators
24 relative to permit issues -- it's very clear on that --
25 and pretty much available to anyone that has an issue with

1 an action or an inaction by an LEA. So we thought with
2 that existing appeal process, why build a whole separate
3 one; just defer to that.

4 COMMITTEE MEMBER PEACE: Yes. Okay.

5 And back to the local land-use permit issue. It
6 says currently a permit application package must include a
7 copy of that. And now we're doing away with that. And I
8 was just wondering if I could ask some of the LEAs that
9 are here, I mean did you use that local land-use permit?
10 Was that something that was -- that you would like to have
11 seen in there? Or is it something like complicated
12 matters? I mean I just don't understand I guess why we
13 would be taking that out. Since it has always been
14 required, it seems like that's another piece of
15 information they would like to have.

16 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

17 It looks like you're getting a volunteer.

18 Just staff's approach is: We did hear initially
19 from LEAs that like to have that information in the
20 application and sort of ask staff to keep it in there.
21 And that's why we initially did keep it in there and
22 worked a different way to deal with this issue.

23 But we did hear some LEAs indicate -- and, you
24 know, you'll hear from them too -- is that, you know, they
25 can get that -- and they don't need to get it in the

1 application. They can get it from another source too.

2 So --

3 COMMITTEE MEMBER PEACE: If it's already just
4 right there, instead of having to ask, you know, land-use
5 departments for it, which could -- I know in San Diego
6 could take a couple months to get it if you ask for it.

7 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

8 The main reason staff chose to go down the path
9 of pulling it out is to avoid a situation that some LEAs
10 have taken advantage of, is that CUP is part of the
11 application, they're obligated to find it correct as well
12 as complete; so when they look at it in the correctness
13 point of view, they were saying, "Oh, this CUP is more
14 restrictive, and your application doesn't include those
15 restrictions" -- application, not permit -- "application
16 does not include those restrictions, therefore I'm going
17 to reject your application." And so the application never
18 moves forward because of those inconsistencies the LEA
19 identified.

20 And so staff was saying, "How can we avoid that
21 dynamic," where the LEA is judging the merits of the CUP
22 relative to the Solid Waste Facility Permit? Quite
23 frankly, quick and dirty, is just pull it out so it's not
24 there for them to make a decision about it, and then point
25 over to say, "If you're concerned about CUP consistency,

1 do it when you write the permit. That's when you need to
2 look at it."

3 But, yes, certainly by pulling it out they don't
4 have as easy access as they might anyway.

5 I've got a bunch more to say, but I'll stop now.

6 MR. PIRIE: Yeah, Greg Pirie, Napa County. Just
7 a few opinions that we've had.

8 It gets very -- it's like each site we have has a
9 different process they go through with the CUP. I mean we
10 can have one landfill to where they have to have the CUP
11 first and that kind of kicks off their CEQA process. Or
12 we have a transfer station to where it's operated under a
13 JPA to where it's a quasi-, you know, governmental agency
14 to where they don't even have a CUP. So even from site to
15 site in a small county, it can get really confusing on
16 what the requirements are. So if it's just taken out,
17 knowing that we can always walk down to the Planning
18 Department, if one's available, all is good.

19 CHAIRPERSON MULÉ: Thank you, Greg.

20 COMMITTEE MEMBER PEACE: But we are adding in
21 that the LEA notifies the local planning agency?

22 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23 That would actually be an obligation of the
24 applicant to share a copy of the application -- the solid
25 waste facility application with the land-use people.

1 COMMITTEE MEMBER PEACE: And that's something
2 that's being added that wasn't there before?

3 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
4 That was in the initial 60-day version of the
5 regs that went out for comment. And we're not changing
6 that. We're retaining that -- or proposing.

7 CHAIRPERSON MULÉ: Okay. Any other questions?

8 COMMITTEE MEMBER PEACE: And then just going --
9 in terms of AB 1497, when some of the businesses were kind
10 of skirting that regulation because it didn't say new
11 permit. You only had to have a revision. And now we're
12 saying if it's a new permit. And I wonder if maybe -- are
13 we going too far? Instead of saying is it a new permit
14 but a new -- not a permit for a new facility, but a
15 permit -- a new level permit for an existing facility.
16 Because didn't somebody say if it's a new facility,
17 they're getting all those public hearings and everything
18 anyway? Aren't we more concerned with if it's a new
19 permit for an existing facility?

20 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
21 This would cover it.

22 I guess one way of looking at it is if you have
23 an existing permit that is revised and you're having
24 meetings, it's not too much different than if you have an
25 existing facility with a lower tier permit and now you're

1 moving up to a higher tier permit. So these regs would
2 recognize that dynamic, which you have brought up many
3 times about, you know, the sort of not level playing
4 field, and it would level that out.

5 COMMITTEE MEMBER PEACE: Right.

6 DEPUTY DIRECTOR LEVENSON: I would just add that
7 this has also been -- the Board has incorporated this kind
8 of provision in the C&D regs already. So this is
9 extending that -- that kind of concept to all facilities,
10 and that's been approved by OAL. So, you know, we do have
11 a basis for doing this.

12 COMMITTEE MEMBER PEACE: And then you're saying
13 if there's been a meeting within the last -- you're also
14 saying if there's been a meeting within the last year, in
15 which there probably would be on a new permit, that they
16 could use that anyway for their public hearing.

17 There was just a couple other things.

18 On RFI amendments, that you had put a meeting
19 notice at the entrance of the facility. But then for a
20 more -- you know, a bigger revised or new or modified
21 permit, that you don't have to have a notice at the
22 entrance of the facility. Why is that?

23 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

24 I guess staff's view was picking up on 1497 and
25 focusing on written notice to surrounding property owners,

1 neighbors. So it moves from sort of a passive noticing to
2 an active mail-out to those property owners.

3 COMMITTEE MEMBER PEACE: I don't know why we
4 couldn't Include that also. It seems to me if 1497 is --
5 you want to let people know. So a minor permit you'r
6 putting a notice at the front of the facility -- at the
7 entrance of the facility, but you aren't at a more
8 substantial change. It seems to me if you want to cover
9 all your bases, you'd not only notice people in a letter
10 but you'd put the notice --

11 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
12 There is language relative to noticing for
13 modified, revised and new permits that indicates the LEA
14 should utilize whatever methodologies they feel is
15 appropriate to make sure they get good notice out there.
16 So if an LEA wants to require a notice to be posted at the
17 site, they have the authority in these regs to do that.
18 It's not required every single time. But they have a reg
19 here that indicates that they can take additional actions
20 to ensure they get full notice out there. And it lists
21 out suggestions.

22 Is that one of the actual suggestions, posting on
23 the site?

24 Yeah. So that is actually listed out as one of
25 the options that the LEA could choose from, yeah.

1 COMMITTEE MEMBER PEACE: Okay. And I guess one
2 other question I had is on page 9-8, number 7, where you
3 say you required the EA to notify all facility operators
4 when they must apply for a five-year review, and that used
5 to be done by the Board and the LEA.

6 Does the Board still have oversight then over --
7 I'm trying to say who keeps track of the ones that have
8 been noticed or when they need to be noticed if the LEA
9 forgot -- say, they overlooked one. Do we still have a
10 list? Do we still keep track of those?

11 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

12 Part of what my staff does is to, you know, keep
13 LEAs on task and make sure they're aware of what the
14 requirements are. The default is the --

15 COMMITTEE MEMBER PEACE: You you'd like to --
16 like these are coming up for a five-year review. And then
17 they need to then notify --

18 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

19 Right. Actually a part of the discussion during
20 the informal process is, if we're moving to the LEAs being
21 directly responsible for this notice, can the Board
22 provide assistance to the LEA in just that, in tracking?
23 And so part of the statement -- initial statement of
24 reasons I believe did indicate that the Board would
25 provide support -- Board staff would provide support to

1 the LEAs in at least making the transition in doing it.

2 If an LEA drops the ball, we have the LEA
3 evaluation process. And this would be a responsibility
4 that would be tracked in part of their evaluation.

5 COMMITTEE MEMBER PEACE: I just wanted to make
6 sure that we knew -- if they did drop the ball, we do have
7 like a master --

8 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

9 Yes, we can catch it through the LEA --

10 CHAIRPERSON MULÉ: -- evaluation is what --

11 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
12 -- evaluation program.

13 CHAIRPERSON MULÉ: Right.

14 COMMITTEE MEMBER PEACE: Okay. I guess my last
15 comment is that we heard so many people -- your praises,
16 Mark and Bobbie and Howard, and say what a good job you
17 did, what a good process this is. And I think that since
18 they do do such a good job, that we should take the
19 recommendation into consideration and go ahead with what
20 our staff recommends, which is Option A.

21 CHAIRPERSON MULÉ: Any other questions or
22 comments?

23 Board Member Danzinger.

24 BOARD MEMBER DANZINGER: Yeah, I want to echo
25 Cheryl's comments about staff. Howard, Mark, Bobbie and

1 everyone, just magnificent work. And not just great staff
2 work; tremendous leadership too in stewarding the process
3 along and getting an outstanding product at the end.

4 You know, on the list, you know, I see merits on
5 both sides. And just a couple thoughts occurred to me as
6 the presentation was going. And, you know, my well
7 thought ideas are dangerous enough, but, you know, here's
8 something that just occurred to me as I'm listening to all
9 this. And so correct my line of thinking if I'm off.

10 (Laughter.)

11 BOARD MEMBER DANZINGER: You know, I mean there's
12 operators, that they've got this view, and LEAs have got
13 this view. I don't think I see this as, you know, an EA
14 versus an operator's thing, because -- you know, my
15 position, I represent the public, so I'd want strong
16 enforcement, I want stronger enforcement. And I actually
17 think that a list in this case is a set of goals for a
18 well run facility.

19 So I mean if we're talking about the no-brainers,
20 as been referenced on the minor changes, that aren't
21 overly prescriptive, they're not one size fits all, they
22 seem to provide the clarity and they seem to provide, you
23 know, sort of the more predictable enforcement of some
24 basic issues. And I know even though the significant
25 changes lists seem to wane in its attention and -- you

1 know. When I was looking at that -- and I don't know what
2 the breakout was on that, the breakout that was being
3 discussed on the agreement/disagreement, you know,
4 whatever, 60/70 percent agreed on it, I don't know. If
5 that was the case on the significant change, I'd like to
6 know who's the 30 to 40 percent who didn't think those
7 four things were significant changes, because I can't
8 think of a scenario under the sun where none of those four
9 were significant changes.

10 So I just tend to think that having some list or
11 a version of it, perhaps with the out, you know, for the
12 LEA that was suggested before, I just see that -- I don't
13 see that only as providing more clarity and predictability
14 for operators. I see it as us getting stronger
15 enforcement.

16 So, anyway, that was the line of thinking that I
17 have with respect to a list.

18 COMMITTEE MEMBER PEACE: Well, the Option A also
19 does include a list as an advisory.

20 CHAIRPERSON MULÉ: No, it doesn't. Option C
21 does.

22 COMMITTEE MEMBER PEACE: No, I thought --

23 BOARD MEMBER DANZINGER: Yeah, the staff
24 recommendation is no list whatsoever.

25 COMMITTEE MEMBER PEACE: But it still goes in an

1 LEA advisory.

2 BOARD MEMBER DANZINGER: Well, yeah, right.

3 COMMITTEE MEMBER PEACE: And like they said, you
4 know, lists can change. And if we have -- if we have it
5 in regulation, then there has to be a mechanism to --

6 COMMITTEE MEMBER WIGGINS: Well, what do you
7 want, Jeff?

8 BOARD MEMBER DANZINGER: Well, I think that --
9 you know, when we look at Option B, that has a list, just
10 looking at the minor changes. And the ones that staff is
11 referring to that generally had like the 90 percent
12 agreement in all of the work group sessions, I think that
13 that might be a happy medium, because you're going to get
14 a list that provides some clarity and some predictability
15 to operators, they're largely noncontroversial because
16 almost everyone agreed to them. You know, it sort of
17 takes them -- you know. And I mean I think it --

18 COMMITTEE MEMBER WIGGINS: Excuse me, but I agree
19 with you.

20 (Laughter.)

21 BOARD MEMBER DANZINGER: Usually people do agree
22 with me without the preface of "excuse me".

23 COMMITTEE MEMBER WIGGINS: Yeah. I think we need
24 to take out the "and is listed below" part.

25 BOARD MEMBER DANZINGER: I agree with you on that

1 one too.

2 CHAIRPERSON MULÉ: The language that was
3 recommended says "as provided in the current RFI includes
4 but is not limited to..."

5 COMMITTEE MEMBER WIGGINS: Yeah.

6 BOARD MEMBER DANZINGER: Right, that was the --

7 CHAIRPERSON MULÉ: -- Option B.

8 BOARD MEMBER DANZINGER: Yeah.

9 COMMITTEE MEMBER WIGGINS: That I agree with. So
10 I'm for B, with those changes.

11 COMMITTEE MEMBER PEACE: I'm saying that our
12 staff held many, many workshops on this and they got input
13 from everyone. And their recommendation, who we all just
14 gave their praises because they've gone through this
15 process, their recommendation is Option A after everything
16 they've heard, after all the times that they've -- all the
17 years that they have worked here at the Board and know
18 what's going on, that their recommendation was Option A.
19 And with them saying that if there is a disagreement
20 between the operator and the LEA, that they can always
21 come to the Board for an appeal or always ask our staff.
22 I don't see what the problem is.

23 CHAIRPERSON MULÉ: Well, Board Member Peace, if I
24 can address that. I have been involved in nearly every
25 meeting and workshop that this staff has held. And so I

1 do hold all their work in very high regard. But I will
2 also tell you, there has been a lot of discussion on a
3 number of issues. And what I heard in those meetings from
4 our stakeholders is that they want a sense of clarity and
5 certainty about what is a minor change and what is a major
6 change.

7 And so, again, having heard everything that I've
8 heard, I agree with Board Member Danzinger and Board
9 Member Wiggins here, and that we should look at Option B
10 for the minor change, because what it does is it provides
11 that clarity that an operator needs. They just want to
12 know, is it in or is it out? And the option that -- and
13 then the out that we have is, number 1, in this one
14 section that says "includes but is not limited to" and
15 then further on down, as Chuck White stated, there is an
16 option for the LEA to make that decision -- if there is
17 any question as to whether or not a change is a major or a
18 minor change, they can then always refer back to the
19 decision tree as their backup.

20 So I support Option B for the minor change, for
21 the major -- or for the significant change. And let's
22 see.

23 And then on the informational hearing
24 requirements, I agree with staff.

25 The CUP requirement, I still have some questions.

1 I'm leaning towards having that dropped, as staff has
2 recommended.

3 COMMITTEE MEMBER WIGGINS: Could we hear from
4 Howard?

5 DEPUTY DIRECTOR LEVENSON: Madam Chair and
6 Committee and Board members, just a couple points I'd like
7 to make regarding the minor change list, just so it's
8 clear what you're making decisions on.

9 First of all, when we did go into those all-day
10 workshops, we did ask folks what would they want -- what
11 would they take on a list if there was a list? We really
12 didn't talk about, "Do you want a list or not?"

13 So, the fact that there were 90 percent
14 concurrence on some of those items was really in the sense
15 of the question that was asked, which is, you know, "What
16 could you accept on the list?"

17 The B list that is in there with some minor edits
18 is both the -- what we call the 60-percent list and the
19 90-percent list. And if the Committee directs that the B
20 list be included, that's -- you know, that would be fine.

21 I do have some concerns about the proposed
22 language of removing the "and" and the "including but not
23 limited to" because that goes beyond what we already
24 discussed in those meetings about, you know, what kind of
25 constitutes -- what would you be willing to accept as a

1 minor change?

2 CHAIRPERSON MULÉ: Well, but, Howard, I think
3 again -- you know, I've heard many of the LEAs talk about
4 flexibility today. And so I think that would provide them
5 with the flexibility and the authority that they can make
6 that decision whether or not a change is minor.

7 COMMITTEE MEMBER PEACE: But Option A gives the
8 LEA the greatest authority to decide whether --

9 CHAIRPERSON MULÉ: But it doesn't provide the
10 clarity or certainty to the operator as to what is a minor
11 change. So I'm going to support Option B on minor change.

12 So with that, our legal eagles, could you provide
13 us with some direction on our direction here, because I
14 know that we don't have the full consensus of the
15 Committee members.

16 ACTING CHIEF COUNSEL BLOCK: Oh, okay. Well,
17 just to set some context. And then I think I can ask
18 these two gentlemen to talk -- make sure you've covered
19 the four issues where there were some choices to make.

20 CHAIRPERSON MULÉ: Right.

21 ACTING CHIEF COUNSEL BLOCK: Current Board
22 procedure provides that for direction items like this, the
23 direction is provided by the Chair of the Committee after
24 consultation and considering the views of fellow Committee
25 members.

1 I think -- there were I think four issues where
2 staff was looking for direction and where they had some
3 recommendations. And I think it would be better for
4 Howard or Michael to kind of go through those and make
5 sure it's clear what that direction is.

6 CHAIRPERSON MULÉ: Okay.

7 DEPUTY DIRECTOR LEVENSON: The direction that I
8 hear, just to clarify, is Option B on the significant
9 change list as proposed in this language here; Option B on
10 the minor change list, I believe with the change in that
11 one phrase to "including but not limited to"; to retain
12 the current staff -- or the new staff proposal regarding
13 the informational hearings; and to retain the staff
14 proposal regarding the land-use issue.

15 I do want to just point out that once this
16 language goes out for 15-day comment -- I think virtually
17 all of the other comments that you've heard today deal
18 with these kinds of changes. And so you will be focusing
19 the changes in the reg package, folks can make some of
20 those same comments, and we can bring those back in a much
21 more focused manner next time for additional consideration
22 of changes if need be.

23 STAFF COUNSEL BLEDSOE: Madam Chair.

24 CHAIRPERSON MULÉ: Yes.

25 STAFF COUNSEL BLEDSOE: I'm sorry.

1 Howard went through that pretty quickly and I may
2 have misheard him. On the significant change list, is the
3 direction Option A or Option B?

4 CHAIRPERSON MULÉ: B.

5 STAFF COUNSEL BLEDSOE: Option B on significant
6 and on minor?

7 CHAIRPERSON MULÉ: Yes.

8 STAFF COUNSEL BLEDSOE: Will have both sets of
9 lists?

10 CHAIRPERSON MULÉ: Yes.

11 STAFF COUNSEL BLEDSOE: Thank you.

12 CHAIRPERSON MULÉ: You're welcome.

13 COMMITTEE MEMBER PEACE: And you're also saying
14 that you wanted the change that Chuck White proposed. But
15 yet Howard is saying that we should be very careful about
16 that; is that correct?

17 DEPUTY DIRECTOR LEVENSON: That's correct. But I
18 think we can put that out and receive comments on that.

19 COMMITTEE MEMBER PEACE: I don't know -- are you
20 sure we want to do that? We're going to take what
21 industry says they want over what our staff says we better
22 be careful with.

23 COMMITTEE MEMBER WIGGINS: About what?

24 BOARD MEMBER DANZINGER: Howard, can you
25 elaborate on that maybe a bit.

1 CHAIRPERSON MULÉ: Board Member Peace, because
2 the LEAs are actually telling us that they want to have
3 flexibility, by adding this language it gives them that
4 flexibility.

5 COMMITTEE MEMBER PEACE: I'm just saying that
6 Howard is cautioning us against that.

7 CHAIRPERSON MULÉ: But it seems as if Pat and I
8 disagree with that.

9 COMMITTEE MEMBER WIGGINS: Well, what are
10 cautioning --

11 COMMITTEE MEMBER PEACE: -- disagree with Howard.

12 COMMITTEE MEMBER WIGGINS: I don't hear a big
13 caution. But let him say it again.

14 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
15 I'll throw my 2 cents in.

16 Because of the way the regs are being proposed to
17 change with or without Option A, B or C, that part of the
18 regs will be subject to comment. It's open. So people
19 can say, "You've changed it the right way" or "Change it
20 back," whatever. So it can -- it's still in play. It
21 still can be debated. It doesn't lock the Board into a
22 certain direction.

23 It may sort of eliminate some of the options,
24 like C and that sort of thing, but it still can be
25 discussed and commented on during the 15-day comment

1 period, even with the suggested minor change to the
2 introductory language to the lists.

3 So I just wanted to point that out, that it
4 doesn't lock you in to an approach --

5 CHAIRPERSON MULÉ: -- right, into that language.

6 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
7 If we get additional comments during the comment
8 period that say, "You know, we still disagree," we'll
9 bring that back to the Board after 15 days and let you
10 know what the community out there thinks of the changes.

11 CHAIRPERSON MULÉ: Okay. All right then.

12 DEPUTY DIRECTOR LEVENSON: And just so everyone
13 understands, 15 days doesn't start today. While we do
14 have to notice this --

15 CHAIRPERSON MULÉ: When will that start?

16 DEPUTY DIRECTOR LEVENSON: Well, we're
17 thinking -- we're going to try and get it out by the end
18 of this week.

19 CHAIRPERSON MULÉ: Okay. So somewhere around,
20 you know, the 8th, or if not, then early next week.

21 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

22 Yeah, we have to live up to all the compliments
23 that we received. And I need to make sure that we
24 recognize Becky Williams, who isn't up here but has been
25 very, very key in keeping the process moving.

1 CHAIRPERSON MULÉ: I agree.

2 Thank you, all.

3 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

4 So we will endeavor to get the 15-day notice out
5 as soon as possible, and maybe be able to come back to the
6 Board in October with the results.

7 CHAIRPERSON MULÉ: Okay. Thank you, all, very
8 much. And thank you, all, in the audience for your
9 comments today.

10 Okay. Last but not least, we are on Committee
11 Item C, Board Agenda Item 2.

12 DEPUTY DIRECTOR LEVENSON: Okay. This item is:

13 Consideration of a Revised Full Solid Waste
14 Facilities Permit for the Victorville Sanitary Landfill in
15 San Bernardino County.

16 Dianne Ohiosumua is still here, and she'll make
17 the presentation.

18 Are the LEA and the operator here?

19 MS. OHIOSUMUA: Yes, they are.

20 All right. I'd like to let you know the LEA and
21 the operator are present.

22 CHAIRPERSON MULÉ: Okay.

23 MS. OHIOSUMUA: The proposed permit will allow
24 the operator to change -- I mean to increase the maximum
25 daily tonnage from 1,600 to 3,000 tons per day. It would

1 also allow them to update the JTD to reflect current and
2 proposed operations. It will change the estimated closure
3 date from 2059 to 2047. It will delete the total number
4 of operating days per year from a permitted hours of
5 operation section in the proposed permit.

6 Board staff finds that the LEA has made all of
7 the necessary findings relevant to the permit.

8 As indicated on the revised agenda, which I hope
9 you have, at this time -- at the time this item was
10 prepared Board staff had determined all but two of the
11 requirements for the proposed permit.

12 The pre-permit inspection was conducted on August
13 the 15th, 2006. There were no state minimum standards.
14 However, a permit violation was cited for exceeding a
15 tonnage limit by Board staff. The LEA only cited a
16 violation for one month, and that was during the month of
17 June, for the operator exceeding the tonnage in the month
18 of May.

19 The agenda item has been revised to address staff
20 evaluation of CEQA. Now Board staff has made all of the
21 required findings.

22 Board staff recommends Option 1, that the Board
23 adopt the CEQA findings and the statement of overriding
24 considerations adopted by the lead agency as amended in
25 Board Resolution 2006-158 revised and concurs in the

1 issuance of a solid waste facility permit, 36-AA-0045.

2 And as I stated before, the LEA and the operator
3 are present.

4 That concludes staff's presentation.

5 CHAIRPERSON MULÉ: Thank you, Dianne.

6 Do we have any questions for staff or for the LEA
7 or operator? I see them here in the audience.

8 Thank you for coming up today. I guess you had a
9 little trouble with your flight. But you're here.

10 Yes, Board Member Wiggins.

11 COMMITTEE MEMBER WIGGINS: I have a problem with
12 all the increases that are shown here. And the -- as I
13 understand it, the CEQA did not consider 3,000 tons per
14 day in 2006. But there are increases from 80 acres to 491
15 acres, from 67 to 341, the maximum depth of excavation
16 from 152 to 2900. And all that happened in three phases.
17 But, you know, the 3,000 tons per day wasn't considered by
18 CEQA. So I have a problem with this.

19 BOARD MEMBER DANZINGER: I'll echo that.

20 What I'm concerned about is that -- if I got this
21 straight, the -- talked about this -- the 3,000 was
22 intended as part of a -- like a long term plan, right,
23 that over a course of like 50 years they're going to get
24 to this? And this wasn't expected to come so soon. So I
25 guess my question is:

1 If this increase is coming in roughly 49 years
2 ahead of schedule, I -- can we get more on what is the
3 phase-in, you know, what kind of phase-in is planned?

4 Second, what kind of waste flow from outside of
5 the area is this facility and this jurisdiction gunning
6 for, or what are they expecting?

7 And then of course, you know, I mean what kind of
8 plan for oversight do they have on minimizing the impact
9 of this accelerated increase on the surrounding community?

10 So I don't know. Is the LEA or the operator here
11 today?

12 MS. OHIOSUMUA: The LEA and operator are here.
13 And I'll ask the operator to come forward. Perhaps they
14 can address your question.

15 CHAIRPERSON MULÉ: Thank you, Dianne.

16 BOARD MEMBER DANZINGER: Great. Thanks.

17 CHAIRPERSON MULÉ: Good afternoon. Please state
18 your name for the record.

19 MS. HAROLD: Good afternoon. My name's Paula
20 Harold with San Bernardino County LEA. And I will defer
21 your questions to the operator.

22 MS. SANSONETTI: Hi. I'm Nancy Sansonetti with
23 the County of San Bernardino Solid Waste Management,
24 Planning and Permitting Section.

25 At this time we want to make it clear that we're

1 not taking any out-of-area waste and we're not proposing
2 that either. We are requesting the tonnage increase
3 because we've been hitting our 1600 due to unprecedented
4 growth in the Victor Valley. That's the main reason.

5 And the reason we chose 3,000 tons per day is
6 because there is an analysis of that amount of tonnage in
7 the EIR, which is a program EIR. Yes, it's a long-range
8 plan and it wasn't anticipated that we would get to that
9 level any time soon. And we still don't think we're going
10 to get to 3,000 any time soon. We chose that because the
11 analysis does cover that in a programmatic way.

12 All the equipment necessary to handle that
13 tonnage was analyzed. We are not increasing traffic. Our
14 excavations, cover soil was all analyzed in the EIR.

15 We provided a point-by-point response to CIWMB
16 staff addressing those issues. The primary impact of us
17 going to that tonnage sooner than expected in the program
18 EIR is a fiscal impact to us, the operator.

19 Do you have any more specific questions --

20 BOARD MEMBER DANZINGER: Well, the phase-in.
21 When you're referring to the document that it already
22 planned for a 3,000 or something, was that a plan for in a
23 different phase-in time schedule than the one that is now
24 anticipated?

25 MS. SANSONETTI: It was -- the analysis was

1 listed as a Phase 3 projection. And that related to the
2 expansion in the EIR broken down into phases that we
3 anticipated to get to.

4 The phases are more related to the phase area and
5 the footprint of the landfill. But the analysis just
6 happened to be tied in and called Phase 3. And that was a
7 little --

8 BOARD MEMBER DANZINGER: I'm more concerned with
9 how much more quickly are you going to get to 3,000 now
10 than what was anticipated when the docs were put together?
11 Because that's where the -- that's where, you know, the
12 more rapid impact occurs. And, you know, is there a plan
13 to have the right oversight and all that to, you know -- I
14 mean growth is a pain in the you know what. And here's
15 one area where it can be if it's -- you know, if the
16 oversight's not there.

17 MS. SANSONETTI: Yes, absolutely. Our phasing
18 plans and our construction plans would have to be kicked
19 up. The increase to 3,000 is not going to happen any
20 quicker than those construction plans and our funds would
21 allow for that expansion in footprint if it be necessary.
22 We're already anticipating additional equipment needed at
23 2,000 tons per day on-site.

24 So we're not going to take in 3,000 tons
25 tomorrow. Operations is working out their plan of how

1 they can complete all their construction phasing plans.

2 BOARD MEMBER DANZINGER: Okay. But you see what
3 I mean. I mean maybe you won't be at 3,000 tomorrow. But
4 if you're at 3,000 in ten years, that's 40 years ahead of
5 schedule. And that has with it its own challenges. And I
6 don't know whether all the documentation supports that
7 phase -- you know, that ramp up to that point, because
8 obviously it's a different set of challenges.

9 MS. SANSONETTI: Well, it certainly produces
10 operational challenges and financial challenges. But as
11 far as the parameters of what needs to be analyzed under
12 the California Environmental Quality Act, that was done.

13 BOARD MEMBER DANZINGER: Okay. So you're saying
14 that you have the impacts mitigated for 3,000 based upon
15 the CEQA documents that are in place now?

16 MS. SANSONETTI: Yes.

17 BOARD MEMBER DANZINGER: Okay. That was my
18 question.

19 Thank you.

20 CHAIRPERSON MULÉ: Howard, did you want to
21 address that as well?

22 DEPUTY DIRECTOR LEVENSON: Yeah. I would just
23 like to point out -- and Mr. Bledsoe and Mr. de Bie can
24 certainly provide more details -- that in this case, you
25 know, we do have a disagreement with the LEA and the

1 county about the process that was used to determine -- to
2 make the CEQA determinations. And we had suggested that
3 there be an initial study to look at the impacts relative
4 to bumping the tonnage up so much earlier. The county
5 declined to do that and provided us with a memo.

6 In going back and forth with the county, it
7 still -- it does appear, and our conclusion is, that there
8 are no substantial -- there's no substantial information
9 that would allow us to go back and question the
10 conclusions of the programmatic EIR with respect to this
11 earlier date. So we are basically in a position of having
12 to accept that in terms of the impacts. Although we still
13 disagree about the process.

14 BOARD MEMBER DANZINGER: What was in the memo? I
15 mean just generally speaking, I mean what did they --

16 STAFF COUNSEL BLEDSOE: Madam Chair, Michael
17 Bledsoe, Legal Office.

18 What was in the memo was their responses to the
19 kinds of questions that staff had raised, which were
20 frankly the exact same questions you were just raising.

21 So under the process that we would have
22 preferred, the county would have conducted an initial
23 study to do that analysis. But instead they chose to
24 respond directly to the specific questions that we had
25 asked.

1 CHAIRPERSON MULÉ: And so basically you're saying
2 that based on the information that we've received,
3 everything is in line for us to concur with this permit?

4 STAFF COUNSEL BLEDSOE: Yes, that's correct.

5 CHAIRPERSON MULÉ: Mark.

6 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
7 My 2 cents again.

8 CHAIRPERSON MULÉ: Go ahead.

9 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
10 I think staff's rationale behind asking for the
11 initial study process is, one, our interpretation of CEQA
12 guidelines, which we believe the county does follow too;
13 that in our interpretation seem to indicate when you're
14 dealing with a program EIR and you have a change, you need
15 to look at that change through an initial study process.
16 Lacking that, it's dependent on staff to try to figure out
17 what the potential problems might be. So we have to, you
18 know, best we can to understand what this project is, the
19 circumstances around there, and raise the issues, raise
20 the questions. Those were responded to in the memo. That
21 doesn't necessarily mean that we thought of everything.
22 But we tried as hard as we could to come up with what all
23 the potential issues were, and they were responded to in
24 the memo.

25 The initial study would require the county to go

1 through a list of potential issues and address them each
2 on their own merit and provide evidence in the record that
3 indicates their opinion relative to the potential issues.

4 So --

5 BOARD MEMBER DANZINGER: You know, I --

6 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
7 -- based on our staff work, we got what we could
8 get.

9 COMMITTEE MEMBER PEACE: So if you -- if they did
10 do an initial study, would that necessarily require major
11 revisions to -- you know, to the program EIR? Not
12 necessarily.

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 It may not, no. The results of that may be, you
15 know, where we're at right now today. Conversely, it may
16 bring up some issues that no one thought of until they sat
17 down and really looked at them.

18 DEPUTY DIRECTOR LEVENSON: What the initial study
19 would do is provide a very systematic process for going
20 through all the potential impacts as opposed to just what
21 we could think of on the spur of the moment.

22 COMMITTEE MEMBER PEACE: You know, this always
23 concerns me when the owner, the operator and the LEA are
24 all the same.

25 Another thing that concerns me is where they said

1 that the LEA only noted one violation of going over, you
2 know, in their report, that they only noted one violation;
3 where when we did the inspection, we noted like 12 times
4 they'd gone over their permit limits in the last nine
5 months.

6 MS. SANSONETTI: Could I address that?

7 COMMITTEE MEMBER PEACE: Yes, could you please.

8 MS. SANSONETTI: I believe that those other
9 tonnage issues had to do with a total amount of tonnage
10 coming in the gate that needed to be backed out later as
11 beneficial reuse, ADC, that sort of thing. So in the
12 quarterlies you get an adjustment for that. But on your
13 daily tonnage log it shows you going over. So I think
14 that's where that discrepancy comes in. That's why we
15 asked the LEA for a clarification on what exactly they
16 wanted calculated and the daily tonnage. And there was
17 some recent correspondence between CIWMB staff and our LEA
18 on that subject.

19 COMMITTEE MEMBER PEACE: So is that what
20 happened?

21 MS. OHIOSUMUA: I requested doing the record
22 review, which was conducted right after the pre-permit
23 inspection. The operator provided us with their tonnage
24 records for the last six months -- well, a little bit more
25 than six months. I think it was eight months, if my

1 memory's correct. They provided those tonnage records.

2 And I -- and that's where I saw there was 12 days the day
3 it went over. And this is the first time that I'm hearing
4 that their records were incorrect.

5 And I also want to clarify for the LEA, the LEA
6 cited them for violating their tonnage -- I mean their
7 maximum tonnage five times -- I mean they documented that
8 they had exceeded their maximum tonnage five times during
9 the month of May, and they gave them one violation for it
10 in June. But there were other days that they had also
11 exceeded their tonnage that the LEA did not cite them.

12 So I hope that clarifies at least about the LEAs.

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 If I may. This proposed permit does include a
15 Condition 17(f), that I think is an attempt to clarify
16 this tonnage issue, because maybe there was some
17 misunderstanding. But if I could read it.

18 "The maximum permitted daily tonnage for this
19 facility is 3,000 tons per day" -- again, this is the
20 proposed permit -- "and it shall not receive more than
21 this amount without a revision to the permit. The limit
22 pertains to all waste materials that enter the facility."

23 My read of is, any waste that's received by this
24 facility will be a subset of that 3,000. So even if that
25 waste material is eventually used beneficially, it entered

1 the gate as waste and would be included as part of the
2 3,000.

3 CHAIRPERSON MULÉ: It's not 3,000 tons disposed
4 of into the --

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

6 It doesn't say disposed. It says, to me, through
7 the gate. So, yeah. So, for example, if they receive
8 green waste and chip and grind it and use it as ADC, that
9 would -- with this permit would be counted against the
10 3,000.

11 CHAIRPERSON MULÉ: Mark, do you know if that's
12 what the current permit says?

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 I don't know.

15 CHAIRPERSON MULÉ: I'm just wondering if the
16 language is the same or not.

17 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

18 Perhaps the LEA or Dianne has a recollection of
19 what the current permit reads.

20 MS. OHIOSUMUA: I'll ask the LEA.

21 MS. HAROLD: Paula Harold with the LEA.

22 Basically that condition is a condition that
23 we've used from the template on the Waste Board's website.
24 And we just tailor it to that specific site.

25 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

1 The question was whether the current existing
2 permit has that kind of language in it or not. Do you
3 recall?

4 MS. HAROLD: No, I don't.

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
6 Okay.

7 CHAIRPERSON MULÉ: Okay. Well, there's -- Board
8 Member Danzinger.

9 BOARD MEMBER DANZINGER: Yeah. I mean I just
10 want to -- last comment I want to make. I want to commend
11 staff for trying to go there with the LEA and the operator
12 on the initial study. And, you know, that one of the
13 frustrating things for me is that you get a permit here
14 and sometimes your hands are tied. You know it meets
15 certain -- you know.

16 And I'm always trying to look to think outside
17 the box, you know, I mean embrace, you know, our first
18 priority of protecting public health and safety and the
19 environment and trying to do the right thing. And not
20 that just -- you know, I mean it's just frustrating
21 sometimes. So that's good. I mean, you know, you're
22 going where I wanted to go, okay, and I appreciate it.
23 And it's too bad that we weren't able to engage that
24 process, because it sounds like it would not have been
25 onerous and it might have reconciled all this before the

1 fact.

2 Thanks.

3 COMMITTEE MEMBER PEACE: I know staff has
4 suggested that the lead agency conduct an initial study to
5 give us more information. And they find that without this
6 what you've given us is minimally adequate for the Board's
7 environmental evaluation of this project.

8 So I can't support anything that's just minimally
9 adequate.

10 CHAIRPERSON MULÉ: Are there any other questions
11 or comments?

12 Do I hear a motion to approve this item?

13 I do not have a motion to approve. So I guess
14 then this Committee does not concur with this permit.

15 Is that the correct legal outcome because we did
16 not move this forward, or does this go forward to the full
17 Board for consideration?

18 ACTING CHIEF COUNSEL BLOCK: So if I'm
19 understanding this, there's no motion --

20 CHAIRPERSON MULÉ: There's no motion to approve
21 this item.

22 ACTING CHIEF COUNSEL BLOCK: -- and so it would
23 be moved forward to the Board for further consideration.

24 CHAIRPERSON MULÉ: Okay. Then it will be
25 forwarded to the full Board for consideration next week.

1 All right. Thank you, all, very much.

2 If there is no further comment, this meeting is
3 now adjourned.

4 Thank you, all.

5 (Thereupon the California Integrated Waste
6 Management Board, Permitting and Enforcement
7 Committee meeting adjourned at 2:15 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said workshop nor in
13 any way interested in the outcome of said workshop.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 11th day of September, 2006.

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23 JAMES F. PETERS, CSR, RPR

24 Certified Shorthand Reporter

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